THE

BENGAL LEGISLATIVE COUNCIL

PROCEEDINGS.

Official Report.

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GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

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BENGAL LEGISLATIVE COUNCIL.

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A

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B

Banerjea, the Hon'ble Sir Surendra Nath. [Minister, 24-Parganas Municipal (Non-Muhammadan).]
Banerjee, Rai Bahadur Abinash Chandra. [Birbhum (Non-Muhammadan).]
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C

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D

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Das Gupta, Rai Bahadur Nibaran Chandra. [Bakarganj North (Non-Muhammadan).]
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Dutta, Babu Indu Bhushan. [Tippera (Non-Muhammadan).]
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F

Faroqui, Mr. K. G. M. [Tippera (Muhammadan).]
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French, Mr. F. C. (Nominated Official.)

G

Ghatak, Rai Bahadur Nilmani. [Malda (Non-Muhammadan).]
Ghose, Mr. D. C. [24-Parganas Rural South (Non-Muhammadan).]
Ghose, Rai Bahadur Jogendra Chunder. (Calcutta University.)

Goode, Mr. S. W. (Nominated Official.)
Gupta, Mr. J. N., (Nominated official.)

H

Haq, Maulvi A. K. Fazl-ul. [Khulna (Muhammadan).]
Haq, Shah Syed Emdadul. [Tippera (Muhammadan).]
Hindley, Lt.-Col. C. D. M. (Nominated Official.)
Hopkyns, Mr. W. S. (Nominated Official.)
Huntingford, Mr. G. T. (Nominated Official.)
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James, Mr. R. H. L. Langford. (Indian Jute Mills Association.)
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K

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Karim, Maulvi Fazlul. [Bakarganj South (Muhammadan).]
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Kesteven, Sir Charles Henry. (Expert Member.)
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Khan, Babu Debendra Lal. [Midnapore North (Non-Muhammad).]
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Khan, Mr. Razaur Rahman. [Calcutta North (Muhammadan).]
Khan Chaudhuri, Khan Bahadur Maulvi Md. Ershad Ali. [Rajshahi North (Muhammadan).]

L

Lang, Mr. J. (Nominated Official.)
Larmour, Mr. F. A. (Calcutta Trades Association.)
Law, Raja Reshee Case. (Bengal National Chamber of Commerce.)

M

Maharajadhiraja Bahadur of Burdwan, the Hon'ble. (Member, Executive Council.)
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Mallik, Babu Surendra Nath. [Calcutta South (Non-Muhammadan).]

Mitra, Rai Bahadur Mahendra Chandra. [Hooghly Municipal (Non-Muhammadan).]
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Moitra, Dr. Jatindra Nath. [Faridpûr North (Non-Muhammadan).]
Morgan, Mr. G. (Bengal Chamber of Commerce.)
Muir, Mr. R. H. (Bengal Chamber of Commerce).
Mukharji, Babu Satish Chandra. [Hooghly *cum* Howrah Rural (Non-Muhammadan).]
Mukherjee, Babu Nitya Dhon. [Hooghly Municipalities (Non-Muhammadan).]
Mukherji, Professor S. C. Nominated Non-Official—The Indian Christian Community.)
Mukhopadhya, Babu Sarat Chandra. [Midnapore South (Non-Muhammadan).]
Mullick, Babu Nirode Behary. [Bakarganj South (Non-Muhammadan).]

N

Nakey, Mirza Muhammad Ali. [24-Parganas Municipal South (Muhammadan).]
Nasker, Babu Hem Chandra. [24-Parganas Rural Central (Non-Muhammadan).]

P

Pahlowan, Maulvi Md. Abdul Jubbar. [Mymensingh West (Muhammadan).]
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Pugh, Colonel A. J. [Presidency and Burdwan (European).]

R

Rae, Mr. W. R. [Presidency and Burdwan (European).]
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Rahim, the Hon'ble Sir Abd-ur. (Member, Executive Council.)
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Roy, Babu Nalini Nath. [Jessore South (Non-Muhammadan).]
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Roy, Raja Manilall Singh. [Burdwan (Non-Muhammadan).]
Roy Chaudhuri, Babu Sailaja Nath. [Khulna (Non-Muhammadan).]

S

Salam, Khan Bahadur Abdus. [Jessore North (Muhammadan).]
Sarkar, Babu Jogesh Chandra. [Rangpur (Non-Muhammadan).]
Sarkar, Babu Rishindra Nath. [Bankura West (Non-Muhammadan).]
Sinha, Babu Surendra Narayan. [Murshidabad (Non-Muhammadan).]
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Spry, Mr. H. F. (Nominated Official.)
Stark, Mr. H. A. (Anglo-Indian.)
Stephenson, Mr. H. L. (Nominated Official.)
Suhrawardy, Dr. A. [Dacca West Rural (Muhammadan).]
Suhrawardy, Dr. Hassan. [Hooghly *cum* Howrah Municipal (Muhammadan).]
Suhrawardy, Mr. Huseyn Shaheed. [Burdwan Division South (Muhammadan).]
Swan, Mr. J. A. L. (Nominated Official.)

T

Travers, Mr. W. L. [Rajshahi (European).]

W

Walsh, Mr. C. P. (Nominated Official.)
Wheeler, the Hon'ble Sir Henry. (Member, Executive Council.)
Wordsworth, Mr. W. C. (Nominated Official.)

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS.

(Official report of the Seventh Session.)

VOLUME VII—No. 4.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber in the Town Hall, Calcutta, on Wednesday, the 8th March, 1922, at 3 P.M.

Present:

The Deputy-President in the Chair, three Hon'ble Members of the Executive Council (the Hon'ble Sir Henry Wheeler being absent), the Hon'ble the three Ministers and 96 nominated and elected members.

Oaths.

The following members took an oath of their allegiance to the Crown:—

Lieutenant-Colonel B. H. DEARE, C.I.E., I.M.S.
Mr. R. H. MUIR.
Mr. PERCY PARROTT.
Mr. R. NIVEN BAND.

Starred Questions

(to which oral answers were given).

Non-official medical schools for State Medical Faculty Examination.

* **XXVII. Mr. AJOY CHUNDER DUTT:** (*a*) Is the Hon'ble the Minister in charge of the Department of Local Self-Government aware -

(i) that many non-official medical schools which imparted medical education have ceased to exist because of the Indian Medical Degrees Act V; and

(ii) that an opportunity was given to the students who passed from those institutions to appear for the Licentiate Standard of the State Medical Faculty Examination, but that owing to

the short period during which the privilege was in operation a sufficient number of candidates could not avail themselves of the chance?

(*b*) Are the Government considering the desirability of extending this period to enable these non-official passed students to appear for the State Faculty Examination?

MINISTER in charge of DEPARTMENT of LOCAL SELF-GOVERNMENT (the Hon'ble Sir Surendra Nath Banerjea): (*a*) (*i*) Prior to the passing of the Medical Act, the following non-official medical schools were in existence, *viz.*:—

(1) The Calcutta Medical School.
(2) Major Bose's School.
(3) Dr. Manook's School.
(4) Dr. Mullick's School.

No. (1)—Now known as the Carmichael Medical College is recognised by Government, and is fully affiliated to the Calcutta University.

As regards Nos. (2) and (3) nothing is known.

No. (4)—Correspondence is now going on with Dr. S. K. Mullick with reference to his school being recognised by the State Medical Faculty.

(*a*) (*ii*) The *fullest* opportunity has been given by the transitory provisions to students from these institutions to obtain a registrable qualification.

(*b*) Any further extension of these provisions would be most undesirable. Ample opportunity has been given and these men have only themselves to blame if they failed to grasp it. There must be finality, otherwise the Bengal Medical Act will be stultified.

Reorganisation scheme of the educational services.

***XXVIII. Maulvi ABDUL KARIM:** (*a*) Will the Hon'ble the Minister in charge of the Department of Education be pleased to state when the reorganisation scheme of the educational services below the Bengal educational service will be published and given effect to?

(*b*) Is it a fact that the Government contemplate dealing with the cases of teachers and inspectors first and deferring those of the clerks and miscellaneous officers till the reorganisation of the educational services below the Bengal educational service?

(*c*) If so, will the Hon'ble the Minister be pleased to state the reason for this differential treatment?

MINISTER in charge of DEPARTMENT of EDUCATION (the Hon'ble Mr. P. C. Mitter): (*a*) It is hoped that orders covering teaching and inspecting officers will be issued before the end of this financial year.

(*b*) Both are under consideration. The orders relating to teachers and inspectors will probably be issued first. Reference is invited to unstarred question No. 90 by Rai Mahendra Chandra Mitra Bahadur at the meeting of the Legislative Council held on 24th November, 1921.

(*c*) The case is of such magnitude that it can be dealt with only sectionally. Teaching and inspecting officers form a large majority of the officers concerned, and it is reasonable that their case should receive first attention. It was further necessary to consider the report of the McAlpin Committee before action could be commenced for the reorganisation of the ministerial department of the education services. Also the ministerial officers have since 1st April, 1920, drawn an *ad interim* allowance, which measure of relief was not granted to other officers in the educational services. I may also add that the draft resolution is ready and we expect to issue orders within the next four or five days.

Unstarred Questions

(answers to which were laid on the table).

University examinations during the month of "Ramzan"

216. Maulvi SAIYID HOSSAIN ALY: (*a*) Has the attention of the Hon'ble the Minister in charge of the Department of Education been drawn to the Calcutta University notification published in page 1B of the *Calcutta Gazette* of the 25th January, 1922, fixing the dates for the I.A., I.Sc. and B.A. examinations during the month of holy *Ramzan*?

(*b*) Have the University authorities considered the inconvenience to which the Muhammadan students would be put on that account?

(*c*) Are the Government considering the desirability of asking the University authorities to make the dates more convenient?

The Hon'ble Mr. P. C. MITTER: (*a*), (*b*) and (*c*) The University have informed Government that it is not practicable to suspend all examinations during the month of *Ramzan*, but that with a view to minimise possible inconvenience the examinations have been so arranged that they will be held during the early part of the day and only one paper will be set on each day.

Election of members to the District Board, Bakarganj, from Patuakhali local board.

217. Maulvi SAIYID HOSSAIN ALY: (*a*) Is the Hon'ble the Minister in charge of the Department of Local Self-Government aware of the fact that in the year 1919, in spite of the holding of election of members to the district board, Bakarganj, from Pirozepur local board, Government nominated members to the district board from the said Pirozepur local board?

(*b*) If so, will the Hon'ble the Minister be pleased to state why the election was considered void and nominations made by the Government?

The Hon'ble Sir SURENDRA NATH BANERJEA: (*a*) and (*b*) An election was held but it was declared invalid as it was not held within the time prescribed by rule 54 of the Election Rules. The members had therefore to be appointed by the Commissioner under section 10 of the Bengal Local Self-Government Act of 1885 (Bengal Act III of 1885).

Gurkha incident at the Chittagong railway station.

218. Babu ANNADA CHARAN DUTTA: (*a*) Will the Hon'ble the Member in charge of the Political Department be pleased to state—

(*i*) the date of the report by Rai S. C. Sinha Bahadur about the Gurkha incident at the Chittagong railway station on the 20th October, 1921; and

(*ii*) the date of the receipt of the same by the Government?

(*b*) Are the Government considering the desirability of publishing the report and the connected papers? If so, when?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Sir Henry Wheeler): (*a*) (*i*) 25th November, 1921

(*ii*) 2nd December, 1921

(*b*) It is the intention of Government to publish the report, but this cannot be done till the conclusion of a criminal case arising out of the incident in question and now under trial in Chittagong, as the publication of the report might be held to prejudice the accused in that case.

Honorary visiting Surgeons and Physicians in the Calcutta Medical College Hospital and the Campbell Hospital.

219. Rai Dr. HARIDHAN DUTT Bahadur: Will the Hon'ble the Minister in charge of the Department of Local Self-Government be pleased to state whether it is in the contemplation of Government to appoint at an early date some independent medical practitioners of Calcutta (of established reputation) as honorary visiting surgeons and physicians in the Calcutta Medical College Hospital (including its Eye and Maternity Department) and the Campbell Hospital by placing portions of their outdoor and parts of wards under their independent charge?

The Hon'ble Sir SURENDRA NATH BANERJEA: Government are inviting the Standing Committee (Medical and Public Health) to advise on this question.

Officers of the Public Health Department.

220. **Rai MAHENDRA CHANDRA MITRA Bahadur:** Will the Hon'ble the Minister in charge of the Department of Local Self-Government be pleased to lay on the table a statement showing—

(*i*) the names, qualifications and respective ranks of officers of the Public Health Department, Bengal, and

(*ii*) the average yearly total expenditure of this Department?

The Hon'ble Sir SURENDRA NATH BANERJEA: The member is referred to the answer given to a similar question (unstarred No. 255) asked by him at the meeting of the Council held on the 6th September, 1921.

Jessore Drainage Division.

221. **Babu NALINI NATH ROY:** Will the Hon'ble the Member in charge of the Department of Irrigation be pleased to state—

(*i*) whether there is any division at present called the Sanitary Drainage Division;

(*ii*) what is the precise nature of the duties of Mr. Walter Joule Kerr, B.A., and

(*iii*) what work has he done since 1921?

MEMBER in charge of DEPARTMENT of IRRIGATION (the Hon'ble the Maharajadhiraja Bahadur of Burdwan): (*i*) Yes. The Division has, however, been re-named as the Jessore Drainage Division.

(*ii*) Mr. Kerr was the Executive Engineer in charge of the Division up to 28th August, 1921, when he made over charge to Mr. Maflin, the present Executive Engineer. The duties of an Executive Engineer in charge of a Division are detailed in paragraphs 72-89 of the Public Works Department Code, 10th edition.

(*iii*) The officer in charge of the Division since 1921 was employed in his duties in connection with Arul Bil, Jabuna, Nowi-Sunthi and Amta Drainage Schemes, besides the surveys and investigation of many other anti-malarial projects.

Presidency College.

222. **Babu RISHINDRA NATH SARKAR:** (*a*) Will the Hon'ble the Minister in charge of the Department of Education be pleased to state—

(*i*) whether in the department of Economics in the Presidency College, a post in the Bengal Educational Service was advertised to fill up the vacancy due to the deputation of Professor Coyajee;

(*ii*) if so, whether the gentleman selected was given an Indian Educational Service appointment;

(*iii*) the number of hours of work per week which each of the Professors in that Department had to do—

(I) after Professor Coyajee had left the department and before his vacancy was filled up;

(II) immediately after the vacancy was filled up; and

(III) after the dissolution of the 3rd and 4th year classes in the middle of January?

(*b*) Will the Hon'ble the Minister be pleased to lay on the table a statement showing the number of hours of work per week which each of the Professors in the department of History had to do—

(*i*) before a temporary appointment was made in December last or thereabout;

(*ii*) immediately after that appointment was made; and

(*iii*) after the dissolution of the 2nd and 4th year classes in the middle of January?

(*c*) Will the Hon'ble the Minister be pleased to lay on the table a statement showing—

(*i*) the number of hours of lectures per week which Mr. H. M. Percival delivered while he was Professor of the Presidency College; and

(*ii*) the number of hours per week a Professor in a Government College works on an average?

(*d*) Is it a fact that the number of seats in the M.Sc. classes in (5th and 6th year) Physics is 36?

(*e*) Is it a fact that the number of applicants for those seats far exceeded the number of seats?

(*f*) Is it a fact that more than half the number of seats were left vacant?

The Hon'ble Mr. P. C. MITTER: (*a*) (*i*) Yes.

(*ii*) Yes.

(*iii*) The number of hours' work entailed upon the officers concerned in the preparation of their work is not known. The amount of lecturing and other teaching work done by them was as follows:—

I—Mr. P. D. Mukerji, 9 hours (lectures); Mr. D. G. Chattoraj, 8 hours (lectures).

II—Mr. P. D. Mukerji, 8 hours and tutorial exercises; Mr. Solomon, 6 hours and tutorial exercises; Mr. D. G. Chattoraj, 6 hours and tutorial exercises.

III—Mr. P. D. Mukerji, 4 hours' tutorial exercises in addition to his work as Lecturer on Co-operation and on Agricultural Economics; Mr. Solomon, 4 hours' tutorial exercises; Mr. D. G. Chattoraj, 4 hours' tutorial exercises.

(*b*) The number of hours' work per week entailed upon the Professors in question in the preparation of their work is unknown.

A statement is laid on the table, detailing the actual amount of teaching and tutorial work done by them in the College.

(*c*) A statement is laid on the table. (Reference is invited to the note on the statement regarding the second part of the question.)

(*d*) Up to a limit of 18 in each year, admissions may be made at the discretion of the Principal to the M.Sc. classes in Physics at Presidency College. Admissions are normally restricted to students who have graduated with Honours or who may have special reasons for seeking admission to the College.

(*e*) For the 5th year, 23 applications were received; 10 were granted but only 8 joined. No applications were received for the 6th year.

(*f*) Yes.

Statement referred to in the reply to unstarred question No. 222 (b) showing the number of hours of lecturing and tutorial work per week done by Professors in the Department of History at the Presidency College.

I.—Before a temporary appointment was made in December last or thereabout

Mr. Zachariah	...	8 hours.
Mr. B. K. Sen	.	13 hours.
Mr. U. N. Ghoshal		9 hours.

II.—Immediately after that appointment was made

Mr. Zachariah	...	8 hours.
Mr. B. K. Sen		10 hours.
Mr. U. N. Ghoshal	.	10 hours.
Mr. S. C. Majumdar	.	8 hours.

III.—After the dissolution of the 2nd and 4th year classes.

Mr. Zachariah	. .	5 hours.
Mr. B. K. Sen	. .	5 hours.
Mr. U. N. Ghoshal	...	4 hours.
Mr. S. C. Majumdar	...	0 hours.

Statement referred to in the reply to unstarred question No. 222 (c), showing the number of hours of lectures per week delivered by Mr. H. M. Percival when he was a Professor of Presidency College.

In 1909, Mr. Percival delivered 18 lectures a week; in 1910, Mr. Percival delivered 12 lectures a week.

As regards the second part of the question, it is not possible to give a comprehensive answer to the question for the simple reason that it is not feasible to gauge the

work of a professor merely by the number of hours he may be required to spend in the lecture room, or even to state with any precision, the number of hours lecturing which may be regarded as a reasonable week's work. Much depends on the nature of the work to be done in a particular subject, *i.e.*, whether it is advanced or comparatively elementary, and further, where much variety is required. For example, in History, it is obviously more difficult for a professor to keep himself up to date over a wide field than over a narrow one.

Badshahi Road.

223. Babu SURENDRA NARAYAN SINHA: (*a*) Has the attention of the Hon'ble the Minister in charge of the Department of Local Self-Government been drawn to the fact that the Badshahi Road passing through the districts of Birbhum, Murshidabad and Burdwan is gradually being encroached upon by the neighbouring agriculturists and that the road requires repairs in certain places?

(*b*) Are the Government considering the desirability of maintaining the full width of the road and of supervising systematically the boundary pillars given in various places along the road side by the officers of the Public Works Department?

The Hon'ble Sir SURENDRA NATH BANERJEA: (*a*) The Chairmen of the Burdwan, Birbhum and Murshidabad District Boards report as follows:—

Burdwan.—Attempts are being made by neighbouring talukdars and agriculturists to encroach upon the Badshahi Road, but this Board has been trying to keep in possession the whole length of the road as per *thak basta* and Revenue Survey maps, and cases are being instituted when necessary. The road is regularly repaired by the district board.

Birbhum.—The length of the Badshahi Road which passes through this district is 12 miles, of which 4½ miles is under the control of the Rampurhat Local Board and is maintained by that body; the remaining portion has since been taken up by the District Board itself for repairs, and Rs. 200 has been allotted in the District Board budget for 1922-23 for improvement and petty repairs where necessary. As regards the removal of encroachments notices have already been issued by the District Engineer, Birbhum, to those persons who encroached upon portions of this road.

Murshidabad.—So far as this district is concerned, the Badshahi Road is in good repairs and proper steps are taken to prevent encroachments by prompt prosecution under the District Board by-laws.

(*b*) The answer is in the negative.

Amount spent on the travelling and halting allowances of the [redacted] of the Bengal Legislative Council.

224. Babu SURENDRA NARAYAN SINHA: Will the Hon'ble the Member in charge of the Legislative Department be pleased to lay

on the table a statement showing the amount of money spent on the travelling and halting allowances of the members for attending meetings of the Council during the present financial year up to date?

The Hon'ble Sir HENRY WHEELER: The amount drawn in travelling allowance and residential allowance of members for the current financial year up to the 28th February, 1922, is Rs. 1,02,643-13-6.

Government Bills.

The Bengal Stamp (Amendment) Bill, 1922.

MEMBER in charge of DEPARTMENT of FINANCE (the Hon'ble Mr. J. H. Kerr): I move that the Bengal Stamp (Amendment Bill, 1922, as reported by the Select Committee, be taken into consideration.

The motion was then put and agreed to.

Clause 1.

Babu KISHORI MOHAN CHAUDHURI: The following amendment standing in my name be taken up afterwards as it is dependent upon whether the next three amendments are accepted or not. If the three amendments be rejected, there will be no necessity of moving my amendment. If, however, they are carried, it will be necessary to move it. So I may be permitted to move it after the next three motions are gone into:—

"That in clause 1(3), line 1, for the word 'force' the word 'operation' be substituted."

The motion was postponed.

Rai RADHA CHARAN PAL Bahadur: I move that at the end of clause 1(3), the following be added, namely,—

" and shall remain in force for one year."

Clause 1(3) of the Bill, as will be seen from the text, runs thus:—

" The Act will come into operation on the first day of April, 1921 " and I wish to add the words, " and shall remain in force for one year."

Before I speak on the amendment or rather my resolution for the addition of these words, I just want to make a short statement. These amendments were circulated yesterday and some of my colleagues got this batch of amendments consisting of 124 items last night. Many of us have experienced a difficulty in going through the various amendments, which are tabled here because they were received very late. I do not know whether this is another phase of the Reformed Council. My experience of the old Council was that sufficient time and opportunity were given to us to read, understand, and inwardly digest what was

placed before us at the proper time, but this legislation, the most important legislation that has been taken up since this Council came into existence, has been rushed through with great haste and without giving breathing time to anyone to understand the various taxation proposals.

Let me proceed to my resolution, namely, that the Act shall remain in force for one year and, I shall briefly explain the reasons which have led to suggest this addition.

We are all agreed that this is an evil in which we have very reluctantly consented to acquiesce, if it be passed, as a temporary measure—at least that is the view of many of us in the House; in that case it would give Government good time to tide over the present crisis and to evolve other ways of meeting the deficit. These Bills were not thought of as permanent measures not only by the Hon'ble Finance Member, but also by His Excellency the Governor, who, in his speech in November last in this Council, said that the Government was determined to see that the injustice done to the province by the Meston award was redressed. Having regard to that fact, and having regard to the possibility—I hope there is still a possibility within the next twelve months of this maladjustment being equitably rectified, I think it would not be in any way going against the proposal which has been made to meet the present deficit, if we pass this measure temporarily for one year.

There is another point. Our present situation is that we are faced with a terrible burden of taxation—taxation from above, taxation from below and taxation also in our middle joints, as it were—taxation from the Imperial Government, taxation from the local Government; and further again taxation from the local bodies, for if the proceedings of local bodies are disclosed, it will be found that they also are contemplating the increase of taxes. If, in this way, we, the representatives of the people, who sent us here, are practically compelled to acquiesce in these taxation proposals, with what face shall we go back to our countrymen a couple of years hence and tell them that all we have done in the Council is that we have been able to put additional burdens on their shoulders, especially at a time when the country is so hard pressed by economic distress? I think, therefore, that we should not on any account allow these measures to be permanent. From His Excellency's speech it may also be inferred that this was to be a temporary measure, which he hoped, would be averted by the re-settlement of the Meston award. Further, it is also well-known that this taxation proposal is not intended for the purpose of financing what may be called schemes for sanitation, education and industrial development of the country. The figures placed before us show that our present deficit is Rs. 120 lakhs, and the proceeds of these taxation Bills will be largely swallowed up by meeting these deficits. This deficit is due to the heavy increase of the cost of ordinary administration, and it is clear from the facts that have been laid before us that the bulk, if not the whole of the amount,

will be swallowed up in defraying the cost of the ordinary administration of the province. Further, it is stated that the surplus—it may be Rs. 30 or Rs. 40 lakhs—will be utilised in paying interest and sinking fund charges on the loan which will be raised for the purpose of education, sanitation and the commercial and industrial development of the country. I think in that matter we have not got any material before us. First of all, I beg to point out that we have got a remission of Rs. 63 lakhs for three years only, and as His Excellency himself has said this is not a permanent remission. Who knows that three years hence the Government of India who are also in a very serious plight, will not re-impose our contribution? Then even this amount of Rs. 30 or 40 lakhs or whatever may be left, if the estimate of Rs. 140 lakhs of the Hon'ble Finance Member is realised from these taxation measures, will not be sufficient to enable us to pay our annual contribution to the Government of India; and, therefore, it is clear that we are not sure that we are standing on firm ground. If, however, your anticipation does not come true, you will come to us and say that unfortunately things have turned out quite to the contrary and therefore you cannot but devote the proceeds of these taxes to the carrying on of the ordinary administration. I do not know with what face we shall go back to our countrymen and say to them that we have done this brave act in order to carry on the top-heavy administration.

I think, therefore, that we should not accede to making this measure a permanent one. We ought to review our position at the close of the year and there will be no difficulty in renewing the Act, if we find that it is for the nation-building departments—as they are popularly called—that the money is required. If the receipts are devoted to the betterment of the economic condition, the removal of distress and the improvement of sanitation and education and the people get a substantial return in that way, then, and then only, we can sanction these measures as permanent.

Having regard to the fact that before introducing this measure the Council was not taken into confidence and no committee of the House was appointed to consider what shape the additional taxation proposals should take and that it was conceived in haste, and that the proceeds of the taxes will be devoted almost wholly to the purpose of ordinary administration, I am sure we should not on any account accept these measures as a permanent burden on the country. It may be asked—"How will then the administration be carried on?" If this is the way in which the administration is to be carried on, it is far better that we should come to a deadlock and review our position and establish a strong committee like the Geddes Committee, which effected such ruthless reduction in the expenditure of the finance of England. I think, Sir, therefore, that we should add this proviso so that we may be able to review our position at the close of the year.

Maulvi MUHAMMAD ABDUL JUBBAR PAHLOWAN: I was against any taxation proposal before it was formulated because our country is so poor and unable to pay the heavy taxes which are already in existence. I thought it fit that there should not be any new taxation, but as the Council agreed to the entertainment of such proposals, I think that they should not be in force for more than a year; because by that time we shall see whether any retrenchment could be effected or how much the expenditure of Government could be curtailed; if considered necessary, we might then prolong it. So, in the first instance, I do not wish that it should be permanent or operate for more than a year.

Babu INDU BHUSHAN DUTTA: As I have another amendment to move in this connection, I beg leave to withdraw the present one.

The following amendment was then, by leave of the Council, withdrawn:—

"That at the end of clause 1 (3) the following be added, namely:—

'and shall remain in force for one year.'"

Mr. TARIT BHUSAN ROY: I move that for clause 1 (3) the following be substituted, namely,—

"(3) It shall come into force on the first day of April, 1922, and shall remain in force for a period of two years from that date."

Taxation, as is well known to many of us, is always odious and nowhere is it more so than in a poor country. It is still more so if it is sought to impose a permanent burden upon an over-taxed people. We all know under what circumstances it has become necessary to have recourse to taxation for tiding over a financial crisis. It is no use denying the fact that the Bengal Government have not spared any efforts for the purpose of obtaining a financial readjustment to their advantage. As a result of the deputation which went to Delhi, a few months ago, the Government of India, which itself is not in a better position, was pleased to remit the annual contribution of Rs. 63 lakhs from Bengal for a period of three years only. We are still faced with a deficit of Rs. 120 lakhs. It is a matter of uncertainty as to how far the expectations of the Hon'ble Finance Member will be realised in regard to the revenue which is anticipated from the Stamp Bill. My reason for bringing this amendment before this House is that I do not want to fetter the hands of the next Council. Things may improve in the meantime. Who knows that the Government of India will not in the meantime decide upon a reopening of the whole question of financial adjustment. It may appear that the revenue from the Stamp Act will not yield so much as is expected by all of us. These are contingencies which are quite possible and in these circumstances I do not think any harm will be done if the life of the Stamp Act is fixed for two years at the present moment. If the necessity does arise there will be no difficulty in going

to the next Council for renewal. I hope you will permit me to place before you a few extracts from the Montagu-Chelmsford Report.

If I knew, Sir, that as a matter of fact this Stamp Bill would not press heavily upon the poorer section of our country, I might not have felt the necessity of bringing my amendment before this House; I would not trouble you with my opinion on this subject, and it is for this reason that I would ask for your indulgence to place before you a few extracts from the report of the illustrious authors of the Montagu-Chelmsford Report. The report reads:—

. . . None the less we must try to realise the broad facts. Two dominating conditions will be quickly apparent to anyone who turns to the records and reports; one is that the immense masses of the people are poor, ignorant and helpless, far beyond the standards of Europe.

And then it goes on:—

It is evident that the curve of wealth descends very steeply, and that enormous masses of the population have little to spare for more than the necessaries of life. The fraction of the people who are town-dwellers contribute only a very small proportion to the revenues of the State.

It again proceeds:—

. . . The rural classes have the greatest stake in the country because they contribute most to its revenues."

Now let us see what the report says again and how it will affect the interests of the rural population—the Stamp Act.

A simple, cheap and certain system of law is one of the greatest needs of the raiyat He greatly needs to be protected against the intricacies of courts and subtleties of law and enabled to defeat the advantage enjoyed by long-pursed opponents. The working of all the great procedure Codes, the law of usury, of registration, or limitation of contract, the Court Fees Act, the Stamp Act, is felt in the remotest village in the land.

It is for this reason that I say, and say with all earnestness, that the life of the Stamp Bill should be limited to two years. I hope our financial position will improve by that time. We do not yet know whether the demands of economy and retrenchment in public expenditure have been sufficiently complied with. With these few words, I would place my amendment before this House.

Rai UPENDRA LAL RAY Bahadur: All increases in the existing taxes should be of a temporary nature as the country is not in a position to continue to pay these additional charges. We should not tie the hands of our successors in this Council in matters of this nature indefinitely. It may be said that if the Council has the power to increase the taxation, it has also got the power to reduce or stop it altogether, when financial conditions would improve. If this be an argument in favour of continuing the taxes, the argument may equally apply even if the taxation is fixed for a certain period, as the Council would be competent to extend the provisions, if there is real necessity for it. One other argument against permanent taxation is that it would always give opportunities

to the framers of the Budget from year to year for relying on the additional revenue in making provision for certain expenditure which could otherwise be saved. To avoid this contingency also I suggest that the increased rates should be in force for a period of two years only.

Babu INDU BHUSHAN DUTTA: In course of the discussion at the time of referring these taxation Bills to various Select Committees, I opposed the principle of taxation for meeting the ordinary costs of administration. Even now I oppose these Bills. But as in spite of our opposition, this Council referred the matter to the Select Committees, and as the chances of carrying the opposition in this Council seem rather small, I am trying to do the next best thing, namely, to make these Bills as harmless as possible. With this end in view, I have sent in a large number of amendments, the most important one being to make the Bill temporary. I feel, Sir, that our poor country cannot bear a new permanent taxation.

An extraordinary financial situation has arisen, and I am confident that by the reorganisation of some of the departments considerable retrenchment may be affected. Some of us made a suggestion, a few days ago, that a retrenchment committee, like the Geddes Committee appointed by the British Parliament, might be appointed here to suggest possible retrenchments. I am extremely mortified to find that this idea has not found favour with the Hon'ble Finance Member. I confess I do not understand his arguments for opposing our very modest suggestion. It is true, as has been said, that the Budget of Great Britain involves hundreds of millions, whereas ours involves only a few millions. But surely, Sir, is it not possible that even in a comparatively small budget like ours, there may be extravagant and wasteful expenditure, which a competent committee might help to prevent? As the Government have refused to accept our suggestion, we have no other alternative than to make the taxation Bills temporary, so that Government, in sheer necessity, may be obliged to appoint that committee and readjust its finances in such a manner as to preclude the necessity of resorting to taxation for carrying on the ordinary costs of administration. This, Sir, is my first reason for suggesting that the taxation Bills should be temporary. If the Government, of its own accord, will not effect retrenchment, and prevent waste, we as a Council, must try to compel the Government to do so by making these Bills temporary.

Then, Sir, it is well known that the Government of India has promised to remit the contribution of Rs. 63 lakhs for three years only; they have not yet made this remission permanent. Then, again, it is quite likely that the revision of the Meston award will be taken up very soon. When these financial readjustments are hanging in the balance, would it be fair, would it be politic, to saddle the country with permanent taxation and thus announce to the world that Bengal is capable of bearing this fresh taxation, which it surely is not?

Thirdly, there is this most important question of the loan policy. We have been told that unless we make the taxation a permanent source of income, we cannot expect the investors to grant us any loan. Even with a permanent taxation, can you float a loan as long as the Rs. 63 lakhs is not remitted by the India Government permanently? But, Sir, what is this loan policy? Is this loan going to be earmarked for the Hon'ble Ministers? Has that point been decided? Let not the Ministers delude themselves that they will get the whole of the loan. During the last few weeks, we have been hearing a little too much about these loans. It seems that everything is depending on these taxations and loans. You want to fight malaria, you must have a loan; you want to develop irrigation, you must have a loan; you want a technological institute, you must have a loan; you want to improve education, you must have a loan; you want to extend some of the departments, you must have a loan; you want to replenish the balances of the province, you must have a loan. We are hearing of loans to the right, loans to the left, loans behind us and loans in front of us, and at a time, when the rate of interest cannot be less than 7 per cent.!

May I ask what amount you are going to borrow? I do not know what the other members of this Council think, but I am still in the dark as to the amount of loan necessary, and the purpose for which all these loans are likely to be earmarked.

Even if all the taxation Bills are passed, the financial position cannot be such as to facilitate a loan policy. As I explained in my budget speech, the expectation on the revenue side cannot be fulfilled. The revenue under Excise and Stamps is bound to fall. Then, if the Court-fees Bill be made into law, the number of cases in the law courts is bound to diminish, and Government cannot get as much as they are expecting. In short, it is not too much to say that the taxation Bills cannot cover anything more than the deficit. Optimism may be a good thing in some matters but it is never a sound policy to over-estimate your revenue and under-estimate your expenditure, as was done last year. If no balance is left to meet the interest and the sinking fund of the loan, how will you float a loan?

Even if we are able to float a loan, how much will it be? It cannot be more than a crore and a half. Are the Hon'ble Ministers sure that they will get the lion's share of this loan? There are already many demands on the proposed loan.

I find that the Finance Member says that in order to meet the cost of the dredgers for the Irrigation Department, Government will borrow Rs. 50 lakhs from the Government of India, and take Rs. 32 lakhs from the provincial balance. How do they intend to repay the Rs. 32 lakhs? The Hon'ble Finance Member says that this Rs. 32 lakhs will be recouped by means of a loan, when the new taxation is

available. So, before the loan is taken, we have committed ourselves to Rs. 32 lakhs of this amount, in addition to Rs. 50 lakhs that we are taking from the Government of India. How much of the loan can then be earmarked for nation-building purposes? I shall not be surprised if all the departments, including the Public Works Department, try to make up for the retrenchments that they have been obliged to make, by launching on large schemes as soon as the loan is available. So I seriously ask the Government not to jump in the dark by hastily launching on loans schemes without making sure of their financial ground. The financial position of Bengal is most uncertain now, and we cannot recommend any loan, unless and until we know what the revision of the Meston Committee's award is likely to be.

Then, Sir, last but not least, is the reason put forward by Mr. Tarit Bhusan Roy. We cannot conceive of a permanent taxation, because it means tying up the hands of the next Council. We do not know what the financial position is likely to be in the course of the next two years; we cannot quietly give up our just dues regarding the Meston award; so we must regard these taxation Bills as temporary.

We are giving Government two years' time which is quite enough to put their financial house in order. We are giving them sufficient time to move the higher authorities to get a readjustment of the financial award. Even if after this time, the financial condition remains hopeless, then the next Council will be the best judge as to whether this taxation should be permanent or not; we should not hurry to tie their hands and take this responsibility at this uncertain time.

SHAH SYED EMDADUL HAQ addressed the Council in the vernacular. His speech, translated, is as follows:—

Laws are made to suit the conditions of time, place and persons. The country where this tax is proposed did not know what taxation meant during the time of their Hindu or Muhammadan rulers. I cannot find any reason why people should be taxed as they execute deeds, etc., only when in distress. For this reason no such proposals were made during the previous reigns. In a place like this our present rulers have thought it expedient to introduce a Stamp Act and gradually to develop the same by various ramifications. The people have got to submit to it as they have no other alternative. They must bow to the decisions of their rulers as the saying goes "*Hukm-e-Hakim marge-mufajat*" (the order of the ruler cannot be avoided as death cannot be). The people have already been taxed to their utmost and additional taxation will be nothing but a double death. I am from a rural area. I know how the people are going on at the present. Many do not know nor can they think of what blighted condition of life they are in. My opinion is that this new taxation ought by no means to be introduced in our country but in case the House agrees to pass it that its operation should be temporary and limited to a

period of two years. I am under the impression that the House agreed to the introduction of the measure in the expectation that the law would be only temporary to heal up the disease of the deficit from which Bengal is now suffering. But if the treatment of fresh taxation which the House has decided upon is not properly guarded it will only aggravate the disease without curing it as the poet says "*marj barhte gaye jya jyon dowa ke*" (with the administration of medicine the disease continued). The operation of the enactment should have been limited to one year only as proposed in the previous motions, but we may agree to a two years' limit so that the question may be considered by the Central Government and the Parliament. The deficit disease cannot be rooted out by these taxations or by small reductions of the budget figures. The root cause can only be removed by a reduction of the heavy drainage on the country, in the shape of higher salaries. If we look around we find that in all other countries the expenditure is much less than the income. Australia pays each of of her Ministers about a thousand rupees per month and in other colonies nearly the same rate obtains, but we cannot satisfy our Ministers even on Rs. 64,000 a year. The rural people are starving through want and dying in thousands from malaria and from want of sanitary measures, but the salaries of the deputy collectors and munsiffs, etc., have been increased for the increased cost of living, and at the expense of the poor. It is a matter of great satisfaction to us that we can interfere with the voted items; but unless and until the non-voted items come within our grasp, the root cause of the whole evil, *viz.*, the present deficit of Bengal, cannot be removed at any rate. When a venomous serpent bites, or a ferocious tiger attacks a man, that person either fights with the animal or succumbs to its injuries; but when we are beaten or attacked by these educated and enlightened administrators of the country, *viz.*, the Hon'ble Members and Ministers, we have to tolerate the pains which are inflicted on us ungrudgingly because there is no help for it. These pains are the after-effects of the royal mandates. We are the subjects of a civilised Government, and as such, we cannot for one single moment conceive the idea that Government would act in any manner unworthy of their name and honour and we cannot, therefore, expect such treatment from the Government.

As I have already said these officers of Government who run the whole administration, are well-educated and well-cultured. If they do not reduce the salaries of the highly-paid officers, *e.g.*, munsiffs, deputy-magistrates, etc., having due regard to the salaries drawn by other officers of equal position and standing in other countries, there is no other alternative left for us but to bear the whole burden of deficit with fortitude and calmness. The power of saving lies in him who can also destroy. None but the Almighty Hindu deity, Mahadev, was competent to save the Universe from the all-powerful poison which emanated from the churning of the sea. The Government, in like manner,

can only assimilate this poison of deficit, which has come out from them, in consequence of the excessive rates of salaries given to their officers. The well-known Bengali poem can safely be applied to the Government in this connection.—

"Kalakuta pane nay, Nilkantha Mritunjay,
Sabher sarer sar, uma-bimohan
Nilakantha nilakantha karen dharan."

(The swallowing of poison has not made the death-conquering god blue-necked; this blue which dyes his neck, is the highest beauty which charms his consort Uma.)

If the Government or rather the high officials come forward in a generous spirit to remove the deficit by reducing their own salaries they will rise more and more in the estimation of the people without their status and position being lowered in the least as the swallowing of the poison has added to the beauty of the deity rather than reducing the same.

It will be improper on my part to take up the time of the Council any more, as I have nearly exceeded my time-limit and as the acceptance of my motion has been sufficiently justified. If the Government do not find it feasible to accept my motion the maxim "*ek na shud do shud*" (if not one but two) can be applied in this direction. That is to say, we have tried our very best and strained our very nerve, to persuade the Government to come to an amicable settlement with us, as to the means which should be adopted in this crisis of deficit. But Government do not agree with us and turn a deaf ear to all our entreaties and the chronic disease remains incurable.

I would appeal to the House for the acceptance of my motion with all the earnestness I can command.

Mr. AJOY CHUNDER DUTT: I move that after clause 1 (*3*) the following be added, namely,—

'(*4*) It shall remain in force for three years from the date of the commencement.'

The reason why I opposed the introduction of this Bill are the same as those which have prompted me to move this amendment. They are two in number. Firstly, I consider that the imposition of a tax for the purpose of meeting a constitutional provincial deficit is unjust and inexpedient; and secondly, that the sources we are tapping should have been left untouched for the purpose of financing schemes for national welfare. These are the two main reasons why I opposed the introduction of this particular Bill and these are the reasons which have prompted me to move this amendment.

Let me deal with the two reasons one after another. The deficit with which we are faced we are not at all responsible for. It is, as I have said, a constitutional deficit which has, to a very great extent, been brought about by the Reforms. In these circumstances, it is the clear duty of the Government of India to have afforded us financial

assistance. Every person here is agreed that the Meston Committee's award is unjust, and I do not think there are two opinions on the subject. Everbody feels that that award should be set aside. Now, what I fear is that if this tax is made permanent, we may minimise our chance of setting aside the award. That is the objection, the great objection against permonency. The Central Government is faced with a very large deficit; the Central Government has no money with which to assist us at present, and if we levy or impose a permanent tax, they will turn round and tell us, "now that you are able to manage your affairs without our assistance, it is not necessary for us to interfere."

The situation is made more difficult by the fact that both Bombay and Madras are also seeking to set aside this award. I believe they have as strong a case as we have for setting aside this award. In these circumstances, the Central Government is in duty bound not only to render us assistance, but also to Bombay and Madras. Having regard to its present financial situation, the Central Government is not in a position to do so, and unless we can clearly show the Central Government that it is impossible for us to run this administration without its assistance, the Central Government will take no notice of our demand.

These are some of the reasons which have impelled me to move this amendment. We have a deficit of one crore and twenty lakhs of rupees which stares us in the face. The figure has been deliberately reduced, and I do not think it could be reduced very much more by cutting down expenditure. Now, it has been possible to cut down expenditure for next year, but I do not think it will be possible to make similar reductions in the year 1923-24 and the year 1924-25. Savings have been effected by stopping certain works and we cannot stop these works eternally. I feel that the year after next or the year after that we may find the whole of the proceeds of all these three taxes swallowed by the deficit. These are my apprehensions and that is the reason why I oppose the introduction of these Bills.

I want to make it perfectly clear that I am not opposed to taxation on principle. If the proceeds of these taxes could have been devoted to the nation-building departments I should have been the first person to support these very taxes. These are about the only sources from which we can increase our revenue, and if these sources are tapped for the purpose of meeting our deficit, we shall have to fall back upon a loan scheme. The other day, Sir Surendra Nath Banerjea gave us an outline of the different schemes he has and he said that it would be impossible to give effect to these schemes unless money could be placed at his disposal. To-day it is not possible to raise any money without the assistance of a permanent tax; that is the argument of the Hon'ble Ministers justifying permanent taxes. If you make these taxes temporary it will afford us no assistance at all; because we cannot go to

the market for the purpose of raising loans. In these circumstances nothing will be done to assist the transferred departments which are already suffering from want of money. That is also a consideration which has been operating upon my mind. If we make these taxes temporary we shall have the odium of having passed them and at the same time we shall not be able to assist our Ministers. Of course it would be far more satisfactory if these schemes could have been financed from the provincial revenues, but since that is impossible, are we to wreck these schemes by making these taxes temporary? We are between Scylla and Charybdis. Although I do not like the idea of transferred departments being financed from loans, what is the other alternative? It is impossible to-day and within the next year to have the Meston Committee's award revised. If that is the position, are the Ministers to sit idle and do nothing simply because we have no money? I am not arguing for one side or the other, but I am placing before the Council what my feelings are in this matter. Of course we do not know exactly, as no details have been given, what schemes will be taken in hand during the next year ("Hear, hear"). We do not know how much money will be raised on loans for the purpose of financing these schemes. Talking of myself, if I am assured that the Ministers are really in earnest and that they really mean to raise loans for the purpose of financing schemes of national welfare, if that can be clearly explained to us in this Council, I, for one, would be inclined to ask the permission of the House to withdraw my amendment.

Babu KISHORI MOHAN CHAUDHURI: Much has been said by other speakers; so I shall simply explain my reasons why I object to the Bill being a permanent measure. The first reason is that it will give us no relief at all. In the current year there has been a fall in the revenue by Rs. 76 lakhs and under peculiar circumstances Government had to curtail its expenditure by Rs. 68 lakhs. It is proposed next year to do this also as there is no expectation of anything unusual happening and there is a likelihood of the revenue falling short of our expectations. Only an improvement of Rs. 25 lakhs is anticipated by my friend, the Hon'ble Mr. Kerr. It will not be out of place here to remind the members of Council that by retrenchment we have starved or are going to starve the several departments for two successive years. We have heard, however, from Sir Asutosh Chaudhuri how the Education Department has suffered. In the Budget, we have also seen that the receipts under Stamps and Excise have fallen by Rs. 44 lakhs and we do not know what will be the state next year. We are asked by these taxation Bills to raise money by a crore and 50 lakhs. My friend the Finance Member expects a crore and 40 lakhs as the net receipts and after meeting the deficit of a crore and 20 lakhs he anticipates that there will be a saving of Rs. 20 lakhs and he proposes that, depending upon this favourable state of things, a large sum of money can be borrowed by which the capital expenditure will be met and

there will be enough money to satisfy the demands of the nation-building departments. I very well see the utility of the suggestion. If we contract a heavy debt we shall have to make arrangements for purposes of repayment and interest and we can have a crore or two crores for one, two, or three years; so every year we cannot expect to spend a good deal. How we shall meet the falling off in revenue I cannot say. I must confess, Sir, that we have no implicit faith in our Ministers. Last year we were told that there would be no taxation, but this year it is said that taxation is absolutely necessary. The Ministers are now members of a joint Government and it seems that by a magic wand they have all been transformed into bureaucrats. There is no denying the fact that we shall have to face the same difficulty next year. Whether these taxation Bills will benefit the people or not we are not assured and, unless we are assured, we cannot agree to their being placed on the Statute Book as a permanent measure. In the Imperial Government taxation proposals have also been made, in the Local Governments there are also taxation proposals; in the village self-government the chaukidari tax or the village tax has been raised. The price of every necessity of life has gone up very high and the people find great difficulty in making two ends meet. As it has been admitted, Sir, the Meston Committee's award is not just and, I believe, as I showed the other day, that the real reason of the deficit of the Government is due to the increment of salaries which has been granted and other circumstances which were not taken into consideration. There is an expectation that the question of revising the Meston award will be re-opened and we have been asked by His Excellency Lord Ronaldshay that we should go on agitating until we get our grievances redressed. If we impose a tax on the people permanently to meet the immediate demands with some hope of getting only Rs. 63 lakhs from the Imperial Government, will there be any change of getting the question reconsidered? If the people can submit of these taxations it will be said that the province has enough to meet its demands. We have not as yet heard what recommendations have been made by the several standing committees with regard to retrenchment. We have not also heard what the Police Committee will say about retrenchments in that department. I think, in the supplementary Budget, the police demands will not be less than Rs. 10 or Rs. 12 lakhs. If we get some money we shall have to meet such demands. Out of Rs. 20 lakhs we shall have to pay something for the police department which will total up to an enormous sum of about Rs. 2 crores out of our revenue of Rs. 9 or Rs. 10 crores. In this way, we shall have also to make arrangements for several other departments, if there is gradually a falling off in our revenue. Here also we must know what the difficulties are. All sections of the people have not accepted the Reforms in the spirit in which a portion of the community has done. There is also an agitation that these Reforms are of no use. If we tax the people in the way we have

been doing, I believe the people will not only be dissatisfied but they will avoid paying the tax by avoiding transactions involving the use of stamps and keeping themselves out of law courts. Some time ago, a very distinguished personage, Sir Asutosh Chaudhuri, said that there was a controversy whether Government should tax the people for litigation and, in the end I believe, the High Court contended that it should not be done and the High Court's contention was upheld. In this connection, I may say that this form of taxation has not been considered by a representative committee of this Council. We were not asked what tax should be levied. Of course I know that a committee was formed to examine what increments of revenue might be expected by amending the Stamp Act, but I submit that it was desirable at first to see whether there were other forms of taxation which could be reported to The Stamp Act affects the daily life of the people. Whenever a person is in need of money he has to borrow and for this purpose he will have to execute a bond and pay stamp duty to Government. If anybody likes to make a purchase he shall have to do it by a *kabala*. In this way, if people are taxed, I do not think they will be glad. By this taxation we shall be able to carry on our administration to the extent of our requirements. But I think it would after all be false economy as it would afford us only temporary relief. As the members know, no scheme has been put forward as to how we can make arrangements for payment of debts. How could we then spend money for the nation-building departments, namely, for removing malaria and other things? No scheme has been put forwards but we have only been told that if we are able to raise a crore or two by taxation, we shall be able to put capital schemes off to a loan budget and there will thus be enough money at our disposal. Last year there was a proposal that Rs. 50 lakhs or Rs. 70 lakhs would be spent by Government for the Grand Trunk Canal scheme but this was not done. At the time when this proposal was taken into consideration, we thought that money was required for purchasing the dredgers and that the dredgers could be otherwise utilised and money would be forthcoming by the sale of the dredgers. In the budget there is a proposal that a sinking fund will have to be maintained and the question of the payment shall have to be considered. We now hear that Government will be justified in lending us Rs. 50 lakhs, but is it not a part of the expenditure of the Imperial Government? It seems a misfortune that the finances of the Government of India and the local Governments have been separated. Formerly, the Provincial finances formed a part of the Imperial fund and whatever we required we got it from the Imperial Government. Now we find that our funds have been separated. At the same time, we have been given power for fresh taxation. That is not, however, the way in which our demands should be met for ordinary purposes of administration. If a loan has to be contracted I think that some remunerative scheme should be undertaken, by which we can derive some benefit as by the sale of quinine

or by having some workshop. The first thing, Sir, is to see that the taxation that is proposed is acceptable to the people. If you can assure the public that by submitting to this taxation permanently they would derive benefit, then the people can accept the taxes. In this view, I think, we should impose a restriction of three years as the period for which the Imperial Government have granted us relief to the extent of Rs. 63 lakhs. It was only done in anticipation of the revision of the Meston Committee's award. So we must await the final result and then consider whether we should continue this taxation or adopt some other device for taxing the people. We are responsible to the Government as we are practically its advisers. So far as the reserved departments are concerned we are practically its advisers; in the transferred departments we are also practically advisers, but we can refuse grants here and there. We, however, feel it our duty to point out to the Government that to tax the people, without satisfying them that it will be really to their benefit, is not a sound policy. There is already a movement against Government and that movement should not be strengthened in any way. That is all I have to say in regard to this and I hope the Council will accept my amendment.

Kumar SHIB SHEKHARESWAR RAY: My amendment is identical to that moved by Mr. Ajoy Chunder Dutt and Babu Kishori Mohan Chaudhuri.

We are now faced with a most embarrassing and unenviable situation. No Legislative Council prefers to tax the people of the land unless the Council be itself assured and in its own turn can assure the people that, as against its demand on the people's purse, there would be a countervailing advantage in the near future. But here we have none. For mere carrying on of the ordinary administration of the land, we have now to tax the people when trade and all activities are at their greatest depression. Some of us had opposed the introduction of these Bills on that ground, but the majority in the Council have thought otherwise and have ruled that these taxes should be imposed at once. Well, Sir, sheer penury has driven us to this trait; the high cost of administration seems to leave us no other way out. So, let it be as the majority dictates.

But, Sir, we appeal to the House to make these taxation Bills temporary, in order to tide over the present financial crisis which we have good reasons to believe to be also of a temporary character.

Our current year's revised estimate of receipts shows a falling-off of about Rs. 76 lakhs. And on the basis of these figures has our shrewd Finance Member prepared the next year's estimate? But, Sir, I am not yet so great a pessimist as to think that this will last long. The main heads under which this falling-off has been noticed have all along been very flourishing or reproductive. It was mainly due to the depressed state of trade and industry during the year that these sources

of revenue have suffered so much. But, Sir, trade depression and political squalls are not going to last for ever. Let us hope for the best, hope that the storm will pass and things will look up very soon. Thus, Sir, we entertain every hope to have our Rs. 76 lakhs a year, if not more, with the return of better times.

Another cause of our financial breakdown is the ever-growing cost of administration; this also is a temporary disorder which can be and ought to be cured. The Hon'ble Mr. Kerr says that he has not "hidden away in an almirah in the Secretariat a magic wand called 'Retrenchment,' but that retrenchment is a matter of dull plodding inquiry." I thoroughly agree with the Hon'ble Mr. Kerr, when he says that retrenchments imply plodding inquiry and that there is no such magic wand. But, Sir, I cannot agree with him when I find that in his shrewd wisdom he has carefully avoided the plodding and then at the first opportunity has flown to his special brand of "magic wand," viz., taxation which is to change the aspect of the Bengal Finances from a care-worn hag's to that of a bedecked beauty. A great feat of magic no doubt! But our countrymen want logic and not magic. Knowing that our position here is a voted item as distinct from the non-voted one of the Hon'ble Mr. Kerr, we dare not practise jugglery with our voters.

We are going to raise the value of all stamps by about 50 per cent. Stamp duty in India has never been very low, and even as they were, they did not compare very favourably with European countries. But now when we have got the Reforms, when people are anxious to see how they are going to benefit from the Reforms, we, by increasing the stamp duties, are dashing the hopes of the people, and making all their business activities more costly. And the sole argument in its favour is that even for the ordinary administration of the country under the Reforms, more money is needed and it must be had, no matter whatever it might cost the people. We cannot dash to the ground the hopes of the people in this way. We want to make the Reforms successful. We are not going to tax the people for simply maintaining a costly administration under the Reforms. We want retrenchments, even drastic retrenchments all-round. We do not want the ever handy bogey of inefficiency to be popped up to frighten us again. We do not want the people to be crushed under the innumerable burdens imposed by both the Provincial and Imperial Governments. What is the use of having merely efficient servants when the master dies of inanition? We have seen that retrenchments cannot be effected within a year however well-intentioned we might be. So we give the executive some time to set its house in order, so that it can have no excuse hereafter. If the executive sincerely wants our help so much so good, but retrenchments must be had at any cost, even at the cost of what the executive might be pleased to call "efficiency." Sir, we

do not propose to embarrass the Government nor do we propose to put our countrymen under a perpetual burden of taxation, so we want to make these taxations temporary.

In my amendment, Sir, I have proposed that this Bill do last for only three years. For if we make it merely a one year's affair, people who naturally prefer their own purse to that of the Government, would try to evade the law's clutches by postpoining all but their urgent affairs. So it would be worse than useless. We would only win the odium, but no money. And, again, if it be made operative only for two years, our successors in the next Council will not heap thanks on us, when they come to the job. We would perhaps leave them then a legacy of deficits, and start them on their career on a three-wheeled chariot of new taxations. I am afraid they would not enjoy it much; and so I move that the Bills be made to last for three years. Let the new Legislative Council have at least one year's time to understand its business before being called upon to impose new taxations.

The Hon'ble Mr. Kerr has threatened us that unless we make the taxation permanent, he would not allow us to draw Rs. 40 lakhs from our balances which amount to about Rs. 63 lakhs. Mr. Kerr is a shrewd man of finance; we cannot quarrel with him and if he is more circumspective than the Government of India he can afford to spend Rs. 20 lakhs from our minimum balance, but in that case also the taxations would give us a surplus of Rs. 20 lakhs; so we need not be anxious about his threat. Then it has been given out that if we do not make the taxation permanent, it would be impossible to raise loans on our revenues of a temporary character. We do not know why the executive is thinking of raising loans. The circumstances under which loans can be raised are given in the Local Government's borrowing rules. Let me quote that "A Local Government may raise loans on the security of the revenues allocated to it for any of the following purposes, namely,—to meet capital expenditure on the construction or acquisition (including acquisition of land, maintenance during construction and equipment) of any work or permanent asset of a material character in connection with a project of lasting public utility." It also gives some instances where we can raise loans, but generally in those cases the Government of India advance the loans, so I need not read them. As far as we are aware there is only one proposal of borrowing of a sum of Rs. 82 lakhs. Of this, Rs. 50 lakhs would be advanced by the Government of India and only Rs. 32 lakhs is to be raised by public loans. It is, however, rumoured that our Government intends to raise a very big loan to meet the cost of police buildings and to give effect to various schemes and projects of our Ministers for education and public health. In the absence of definite schemes we are unable to state whether we would approve of floating big loans in the present distressed state of finance all over the world. This much we can say that, unless the executive can make out a very strong case,

we are not going to allow them to raise loans which are after all nothing but deferred taxations. Even assuming that big loans are going to be raised, I fail to understand what it has got to do with the temporary character of the present taxation. We want to make the tax temporary because we believe that in the meantime we shall be able to improve the state of our finance by retrenchments and better receipts. If we fail in that, there will be nothing in our way not only to make these taxations permanent but, if need be, also to pass fresh measures of taxation. Our money-lenders can have no fear of their money not being paid up. The borrowing rules under the Government of India clearly lay down that payments of such loans shall be made in priority to all payments by local Governments, and we all know that our present annual income without taking into account the receipts of the proposed taxations is well over Rs. 9 crores and we have the whole credit of the British *Raj* behind us. In these circumstances, it would be almost foolish to think that people would hesitate to lend us money because of the temporary character of the taxations which at the utmost add only about Rs. 1½ crores to our coffers and which we have been led to impose only to meet a temporary crisis to a large extent brought about by the extravagance of an irresponsible executive. I beg to move that the measure be made temporary for three years.

Rai MAHENDRA CHANDRA MITRA Bahadur: I have got a motion to the effect that the Act shall remain in force for three years from the date of its commencement. When the Taxation Bills were passed by the Council, we were under the impression that the measures were passed for the purpose of meeting the deficit and not for increasing the revenue of Government and it was thought that the measure was to be a temporary one. Now we see that the Act is to be in operation for years and years and there will be an encumbrance upon the people. The only question which ought to be considered by the Council is that we want to increase the revenue for the purpose of meeting the deficit. We assume, therefore, that deficit will continue for years and years and the present Stamp Act will be in operation as long as Government think it fit and proper. If we go into the history of the Stamp Act in the earlier years, we notice that that was not the policy of Government at the time, but after all, Government think it necessary that they will take money out of the people by enacting an Act, the sole object of which is to increase their revenue. If that procedure or that policy is intended to be followed in the present case, we would respectfully urge that that ought not to be the policy. Do not put the Act as a permanent encumbrance upon the people. I am not raising the old question of the Report of the Meston Committee as to the distribution of money between Provincial Governments and the Central Government. We have an eye to an important matter, namely, the retrenchment of the expenditure which is now

incurred by Government. If we succeed in doing that, then there will be no difficulty. If we do not succeed in impressing upon Government that retrenchment is possible, we cannot at the same time convince the people that the taxes ought to be permanent. I shall speak on the subject when the Court-fees Bill will be the subject-matter of consideration, but I do submit, with respect to the Council, that it will be a sad policy if the Act is in operation for years and years and the object of Government is not to meet the deficit but to make the people pay for the purpose of increasing their revenue.

Babu NALINI NATH ROY: There has been a deficit in the Budget, so we must pass this taxation Bill and some others. Nothing can be more sweet and reasonable in this best of possible worlds. What I cannot avoid, although I am an inhabitant of this best of all possible worlds, is the question "Who is responsible for deficit and who pays taxes?" I daresay it is a highly reasonable arrangement for the Government of the country with its executive and legislative branches continuing to create deficit in the Budget, and the people of the country filling up the gap. But still I cannot shake off the nasty question in my conscience before I rush forward to fill up the gap in the Budget not with my purse but with my precious vote. The first and most rudimentary element of a form of Government which, by any stretch of language, can be called popular or parliamentary, is some sort of control over the purse of the nation, by the nation directly or through duly constituted representatives, or, in other words, where the people have got any sort of control over the tax paid by them, it is a representative form of Government. Conversely, where they have got no such control, where the voice of the people is not heard or heeded by those in authority, it is an outrage on language to call it a popular Government, even of a most rudimentary character. Regarding the control of the finances, one thing stands out permanent—the cry for retrenchment. This cry has not been raised to-day; but it has been raised for years since the awakening of the political consciousness in the intelligensia of the country. This cry for retrenchment in the general administration of the country has not been raised by one man or one class of men, but it is the general outcry raised from province to province till the echo of it had almost touched the heaven itself, the gods might have heard it but not men. The gods might have paid some heed towards it but not demi-gods. I have spoken about the elementary character of popular Governments, now I will say something about the elementary duties of the representatives of the people in a popular Government. These duties can be expressed in one sentence—"to do everything possible for the benefit of the people." If it is admitted that the duties of representatives are epitomised in the sentence I have uttered, I would next ask—

"Does the giving effect to the wishes of the people, fall within the definition of duties when such wishes are legitimate?"

I think no worse platitude can be uttered than that it is certainly the duty of the representatives of the people to give due effect to their legitimate wishes. A desire for retrenchment, when such can be made without material injury to the people, cannot be called illegitimate. A desire for retrenchment in the administration when the people themselves have to retrench to the extent of less than one square meal per diem, cannot be called illegitimate. A desire for retrenchment in the face of the spirit in which the past and present budget has been framed and future budgets are likely to be framed, is not only not illegitimate, but something more than legitimate—a sheer necessity of existence.

Now the question of all questions is—whether the retrenchment can be effected in the general administration without loss of efficiency. This question is easy to answer. "No' it cannot be done." Then I will ask whether retrenchment can be effected with such loss of efficiency, as we can well spare? As efficiency, as well as ineptitude can be secured for money, I think every efficiency should have a money value If the administrative machinery of this land is doubled, or a doubly strong machinery existed at the present day, if we have nine Ministers instead of three, four dozen Executive Members instead of four, intervening authorities between magistrates and Commissioners of divisions in the shape of supra-magistrates or infra-commissioners, a revenue cabinet in addition to a revenue board, and if we double, quadruple the pay and allowances of these officers, add a Mount Everest allowance to the ordinary hill allowance, administration would have been or will certainly be more efficient. If we could secure the services of such expert financiers as the finance members of various Governments, for every village union board, the world would be the better for it. We should also remember that even with all these, things will get quite stale within a decade or two; after which, if the spirit is there, there will be a further bid for efficiency. So, to have only relative efficiency is our lot—an efficiency which should bear some relation to the condition of the people. I would ask—whether we have retrenched in the spirit of loss of efficiency which we can well afford to lose. Before any one can vote for taxing the tax-payer, he must find a clear answer in the affirmative to the question in his heart of hearts. Let us ask ourselves how many superfluous posts have been abolished, how much non-essential expenditure has been curtailed, what effect have we given to the united voice of the nation calling for retrenchment in the finances. We cannot lend a hand to impose additional burdens on the people if we are not satisfied that what was possible has been done, that the country can afford to pay for a machinery of government of its present dimensions and its inevitable

future necessities. And what is of supreme importance, we should not lend a hand to impose fresh burdens on the people unless and until a change comes over the spirit in which the tax-payers' money is spent. I should also point out that if it is said that all possible retrenchment has been made, we are bound to assume that no retrenchment in the shape of abolition of posts can be made; that no non-essential expenses are being incurred. Whether this is the correct view to take, I leave it to the members to judge for themselves.

It may be said that taxes and their disposition are being looked to by the Ministers and they have recommended and are of opinion that the Bills are to be permanent, at least without any limitation of time. It was hoped that the large Indian element in the inner machinery of government will ensure that the tax-payers' money will be spent after their wishes to a certain extent. But this hope has not been realised.

Now, it is only fair, under the present circumstances, that this Bill be regarded as a temporary one, only to find opportunity to re-adjust the financial position by giving effect to retrenchment and other necessary things. In conclusion, I would say that it is never safe to leave our conscience in the custody of another, even if it be the Executive Members of the Government and the Ministers, but to use it ourselves; otherwise the legislature becomes an unnecessary item of Government.

Rai NIBARAN CHANDRA DAS GUPTA Bahadur: As a member of the Select Committee on one of the taxation Bills, I beg to oppose the motions for these amendments; and in doing so, I beg to explain my attitude towards the Bills. There is no use in repeating the arguments, which led a considerable majority of this House, to agree to the introduction of the Bills. The avoidance of the apprehended "deadlock," the removal of the paralysing deficit, and the securing of a decent balance, for formulating a loan policy with the object of getting some money to start on a few, necessary schemes of educational and sanitary improvements, were the threefold objects for this step Unlike the Central Government, with its huge deficit of Rs. 31 crores, and plans of taxation of almost all the necessaries of life such as salt, sugar, cloth, machinery, railway fares, postage, etc., which are calculated to hit the poor very hard, we, with our extremely limited capacity for raising money by taxation, have resorted to the least objectionable methods and the poor are not likely to feel the burden. It was with this object, that the Select Committees, even at the sacrifice of a substantial amount of their expected income, have made the Schedules very much easier for the poor classes. The members of the Select Committees were unanimous in doing so. Some of my friends, as it will appear from their notes of dissent, think that these taxation measures should be made as temporary as possible and they have given

their reasons for the course they recommend. To my mind, those reasons seem to be unsubstantial. The expectation of relief from the Central Government is based on no reasonable grounds. To my mind, there is absolutely no chance of any improvement in the absurd financial condition of the Central Government within a reasonable distance of time. The position is so desperate that the Government has been driven to the questionable expedient of taxing all the necessaries of life. Can anybody expect any relief from that quarter? Further, if you make these measures temporary, you lose all credit in the market and a loan-policy cannot be launched with any but the least hope of success. Even if the sanguine hopes of my optimistic friends be realised and the Central Government comes to our rescue, what can stand in our way of removing the present Bills from the Statute Book? Without any provision for a "Sinking Fund" a loan policy is unthinkable. Even if we accept the recommendations of the Select Committee in their entirety, I have grave doubts about our securing a decent balance for a sinking fund, etc. In matters of revenue, we always find that our anticipations are rarely fulfilled. There are so many factors at work and so many untoward circumstances happening, that no financial expert can hope to make forecasts of any reasonable character. Indian finance, with its fluctuating character, has been the grave of the reputation of many a financial expert in the past and there is no reasonable prospect of improvement in the near future. Unless and until our provincial Governments are made thoroughly autonomous, with full powers of regulating the revenue and expenditure, the so-called responsibility is a mere shadow—unreal and unsubstantial. I think matters will take such a critical turn within the probationary period of our Reformed Councils that the Government at Home will be compelled to revise the financial arrangements. We are abused here by the Government for refusing grants in certain matters which they consider urgent and fundamental and by the people for laying additional burdens, however light, upon their already overburdened shoulders. We find ourselves in the most unenviable position imaginable—between the Scylla of the Delhi adjustment and the Charybdis of local needs. Delhi is far off. Our wailings and cries hardly reach the "Gods of the Olympus." Frontier defences alone are sucking our life-blood. If we are to die, there will be none to be defended.

The Hon'ble Mr. P. C. MITTER: I can well understand the hesitation of my hon'ble friends in the Legislative Council in placing these Bills on a permanent footing. The question, however, as every member of this House realises, is a question of the utmost importance. To my mind the future of the province depends greatly on the decision of the House on this question. I have no doubt the members of this House will decide the question with a full sense of responsibility and

without being deviated from the true path of duty in this difficult situation. I admit—and I most freely admit—that the position is difficult. People are going to be taxed all round as some of the members have pointed out. There are the taxes which we are going to impose by leave of this House, then there are taxes which the Government of India are going to impose, and lastly some local bodies, I understand, are also contemplating raising their rates and taxes. But, however difficult the position may be, there can only be one justification for taxation, *viz.*, that the taxes are for the benefit of the people. I have not the least doubt that the majority of the members of this House will approach this question from that point of view and that point of view alone. I shall try to explain why in my judgment—approaching the question from the point of view of benefit to the people—as also from the point of view of the poor—I support taxation on a permanent basis and not taxation on a temporary basis. Sir, what are the bed-rock facts? The Finance Member has already stated that these taxes are likely to yield about Rs. 140 lakhs. It has further been explained that the total amount of the deficit is about Rs. 120 lakhs. Therefore, on the basis of these estimates, there is only a narrow margin of surplus of only Rs. 20 lakhs. Speaker after speaker has pointed out that there is some risk these expectations not being realised. It may be that the next year Excise will fall. It may be that next year stamp revenue will fall. If the House passes these Bills on a temporary basis and if the revenues fall, then we incur the serious risk of imposing further taxation merely for carrying on the administration. On the other hand if the members pass these taxation proposals on a permanent basis they may, as I shall presently explain, make it possible to give up some items of revenue specially those affecting the poor. I shall make my position clearer by explaining further.

Now, Sir, if we put the taxes on a permanent basis, then a loan is possible for capital expenditure. Apart from that, if we get a loan we need not keep a large floating balance. The Hon'ble the Finance Member has explained that if we arrange with a Bank then, instead of keeping Rs. 63 lakhs as a floating balance, we may easily take Rs. 40 lakhs out of that balance. That means on our present estimates even without any extensive loan policy, there will be an estimated surplus of Rs. 40 plus Rs. 20 lakhs, *viz.* Rs. 60 lakhs. On the other hand, if we cannot draw upon these Rs. 40 lakhs, it will mean a balance only of Rs. 20 lakhs—a very, very narrow margin indeed. If we have the surplus of Rs. 60 lakhs and supposing we set apart Rs. 10 lakhs for a loan policy and spend Rs. 50 lakhs on extension of our activities, it is possible for the transferred departments to get more than Rs. 30 lakhs and then we can take up some useful work. With Rs. 10 lakhs which we may set apart for a loan policy, we can then raise a loan of more than one crore. Not only that. There are, in the Budget, items of capital expenditure, for example, building of houses, which we may perhaps meet from a loan. It

does not matter whether the houses are for the police or jail or education. Let us assume that a police building is estimated to cost Rs. 2 lakhs. We may either meet it from the current year's revenue or we may spread the expenditure over say, 25 years by providing about 8½ per cent. on the outlay for the service of a loan. That police building, whether you think it will benefit the people or whether you think it will oppress the people, will remain in existence for more than 50 or 60 years. Now if we raise a loan and meet the cost of that building from a loan, what is the position? Say, from 1922-23 assuming that the life of the loan will be 25 years, we go on paying Rs. 16,000 to Rs. 17,000 till 1947-48.

Rai RADHA CHARAN PAL Bahadur: Does it include the sinking fund?

The Hon'ble Mr. P. C. MITTER: Yes. The rate according to the information of the Finance Member, will be about 8½ per cent. including interest and sinking fund for a 25 years' loan. If you follow a loan policy you take from the current year's revenue Rs. 16,000 or Rs. 17,000 and relieve it to the extent of Rs. 1,83,000 or Rs. 1,84,000. So it is pretty obvious that it would be beneficial to the taxpayers.

Now, Sir, in the next year's budget we have about Rs. 44 lakhs for capital expenditure. Our total deficit is one crore and 20 lakhs and it includes these Rs. 44 lakhs. It will require a further examination for how many of these buildings and other permanent works we can undertake a loan policy.

Rai RADHA CHARAN PAL Bahadur: Rs. 44,00,000 for buildings?

The Hon'ble Mr. P. C. MITTER: In the next year's budget there are Rs. 44 lakhs of capital expenditure from which a loan policy is perhaps possible. Now if we follow a loan policy with regard to these Rs. 44 lakhs then we shall have to pay something like Rs. 3½ lakhs by way of interest and sinking fund assuming that 8½ per cent. would be enough for the service of the loan. That would mean that the tax-payers would be relieved to the extent of Rs. 41 lakhs. I have already explained that there is a balance of Rs. 20,00,000 and more. Also there is Rs. 40 lakhs set free out of the floating balance and if we can follow a loan policy there will be a possibility of another Rs. 40 lakhs being set free. That means that there is a possibility of one crore being set free. On the other hand, if we do not follow a loan policy and if our estimates under Stamps and Excise fall next year then not only will there be no surplus, but if the apprehended fall in revenue be large then the Rs. 20 lakhs will disappear and perhaps during the middle of the next official year the Finance Member will have to come before you for more money and fresh taxation. Is it not better for the members of this House to place the finances of the province on a sound basis?

I have to answer one question. My friend Mr. Dutt has asked me to place before the House the definite schemes we have in the transferred departments if we follow a loan policy. In my department I have estimated the cost of primary education in every municipality in Bengal. I have also estimated the cost of primary education in one district, viz., Hooghly, if primary education be made free in every union board of that district. Estimates have also been prepared for, say, 1, 2, 3, 4, or 5 selected union boards in all the other districts. The Bill is a heavy one and I do not propose to take up the whole of the scheme at once. But I may say that as regards towns where land is expensive pucca structures are desirable, and therefore, a loan policy is possible. I do not want to tire the patience of the House by going into details. But I believe I have given enough indication to show that for the expansion with regard to one of the activities of my department, a loan policy is desirable. Suppose I come to the House after it has passed the taxation proposals on a permanent basis for a loan of Rs. 10,00,000 for primary education. It will mean setting apart Rs. 85,000 a year for about 25 years. On the other hand if I ask the House to find a capital expenditure from the current year's revenue it will have to say that there is no possibility of finding anything like Rs. 10,00,000. Even with regard to Rs. 44,00,000 which we have in the next year's budget, it is not possible to place before the House a definite scheme as we have to go to the Government of India for the sanction of a loan and at this stage we cannot go to the Government of India because we have not yet passed the taxation proposals on a permanent footing. The position is, if the House passes the taxation proposals, we shall very likely go to the Government of India for obtaining their sanction to loans for capital expenditure after the Financial Department has examined the schemes. After the sanction of the Government of India, we must come to you because without your sanction we cannot raise a loan and then the House will have ample opportunity of scrutinising the schemes in all their details. But at the present stage the important question to remember is that if we follow a loan policy with regard to capital expenditure we will relieve the tax-payers very considerably. If things go on well and if our land revenue which fell this year by about Rs. 7 lakhs recovers, then our surplus will be larger. If revenue under stamp and excise revives we shall have a still brighter surplus. If we have a large surplus then any fall in excise and stamp revenue will not necessitate fresh taxation. Therefore in the interest of the poor we should pass these Bills on a permanent footing.

Another point mentioned in this connection is that of setting aside the Meston award. Now the apprehension in the minds of some of my friends is this that if we pass these Bills on a permanent footing then there will be no possibility of the Meston award being set aside. I entirely dissent from that view. The Meston award cannot be set aside at this stage by trying to make out a special case for Bengal. If the Meston

award can now be set aside it can only be set aside by all the provinces acting together. The case that is common to all the provinces is that the Government of India which was responsible for each of the Provincial administrations before the 3rd of January, 1921, was responsible for finding adequate funds for each of those administrations on the date mentioned. As soon as the transferred the responsibility to each of the provincial Governments it became incumbent on them to allot adequate funds to each of the Provincial administrations to carry on their responsibilities. This is a case common to all the provinces. Some of the speakers have pointed out that the Government of India is itself in deficit so that there is no possibility of the setting aside of the Meston award. I admit we should not ignore that possibility. If the Meston award is not set aside then it is all the more important that we should pass these Bills on a permanent basis and thereby gradually build up a surplus for the province. On the other hand, if the Meston award be set aside then we can get rid of the taxation Bills and I may say that this was the sense in which His Excellency used the expression temporary legislation.

Now, Sir, about retrenchment; I may say at once that I am all in favour of retrenchment. If you pass these taxation Bills on a permanent basis it does not fetter your hands about retrenchment. Go on fighting for retrenchment by all means. If we succeed we shall have a further surplus and we can then get rid of some of the provisions of these Bills. But whether considerable retrenchment is possible or not it is undoubtedly a difficult problem which requires patient investigation.

The members of the Council will be failing in their duty to their constituents if they persist in putting the burden of capital expenditure on this year's tax-payers.

I do not want to detain the House any longer. I hope the House will realise its responsibility. I am confident the House will not overburden their voters by passing their taxation Bills as a temporary measure.

These taxation Bills, if passed on a permanent basis, will not only relieve the tax-payers but will make it possible for us to find money for the transferred departments.

Sir ASUTOSH CHAUDHURI: I have listened to the speech of my Hon'ble friend the Minister. He said that we must consider the question of the possibility of a loan when there is a financial stringency. We must see that there is a sufficient balance upon which we can raise a loan so as to relieve a certain sum for urgent need. As an economic proposition that is perfectly correct. But the difficulty that we find with regard to a suggestion of this character is this: it is admittedly a very top-heavy administration. The costs are enormous. The costs must be reduced and what is to be done for that purpose? The Hon'ble Minister has said that retrenchment is a very dull affair. The question of retrenchment

must be fought out and the country insists that there shall be retrenchment. How difficult it is every one knows. If we look to our own houses and if we find that there is a comfortable balance, the question of retrenchment is very difficult to fight out. You cannot cut down easily if your expenditure has gone up and there is a balance. And so far as the Government is concerned it is exactly in the same position. If there is a comfortable balance it is very difficult to cut down the expenditure. We know the history of how the question of two Ministers developed into three and the two Executive Members into four. We are now burdened with a very large amount. In addition to that the expenditure in every single department has gone up. That must not be allowed and if we put these Bills on a permanent basis we shall be told—when these Rs. 20 lakhs may be available as surplus—that here we have a comfortable balance and we do not want to cut down these things; you are having luxuries on European style and if you want Reforms on European style, you must pay for them and here is the balance with which you can pay. I therefore think that we ought to put these Bills on the Statute Book for only a limited period. I am opposed on principle to Provincial tinkering with Imperial Acts, but that is another matter. If there is a balance of Rs. 20,00,000 we must be satisfied for the next few years and in the meantime cut down our expenditure—and it is possible to do so and after these three years we shall re-consider this question as to whether we should place these Bills on a permanent basis.

The Hon'ble Sir SURENDRA NATH BANERJEA: The whole question before the House resolves itself into this: Do you want loans for the activities of the nation-building departments, or do you not? If you want that malaria should continue its ravages, if you do not wish that rural areas and the municipalities should have an adequate supply of pure drinking-water, if you do not want to extend the benefits of medical relief, if you do not want a further extension of primary education, if you want to restrict yourselves to limits which would be a bar to further progress and expansion in all directions, if that be the sense and judgment of the House, by all means vote against the loan policy, by all means support the temporary proposals for taxation that you have been asked to vote for by different speakers. I take it, however, that the better judgment of the House will rise above this paltry consideration—the better judgment which does not concern itself merely with the present, but also with the future. Remember that you are the trustees of the future—the guardians of public health, sanitation, education—charged with a great experiment which is being tried and with which the future of our country is bound up. I ask this House to rise to the height of the occasion, and I hope that this House will realise the full significance of the responsibility that has been imposed upon it. Let me take my own department. Do you want malaria to be eradicated? Yes, that is the sense of the House. If you want it, you must spend money for it. Egypt—a small and insignificant country in respect of size and pecuniary resources—spent over 11

million sterling for the eradication of malaria and for the improvement of its agricultural resources, and Egypt, at the present moment, barring the dark clouds hovering on the horizon, is a progressive and healthy country. You will have to spend at least as much. Do you propose to spend it out of the current year's revenue? Certainly not. You will have to make it a matter of capital expenditure. You cannot spend at once. You must spend it stage by stage in fighting malaria—in grappling with the malarial problem. Therefore, I take it that for the purposes of fighting malaria, a loan policy has to be supported. I do not think that there will be a single dissentient voice when the question is put in that form. Malaria has got to be eradicated. The prosperity and the lives of millions of persons in this province depend upon it. Your people in the rural areas are weak, emaciated, and specially for industrial purposes, their health must be improved.

Sir ASUTOSH CHAUDHURI: Have they got 40 members in the Egyptian Cabinet?

The Hon'ble Sir SURENDRA NATH BANERJEA: I am not sure that they have, but that has nothing whatever to do with the question at issue, *viz.*, as to how malaria is to be eradicated from this province. I take it that this is the issue that we ought to put before the Council. Do you or do you not wish that malaria should be eradicated? I do not think that a single dissentient voice can be raised against it. Malaria must be got rid of. If it is to be wiped out it must be with the expenditure of a large sum of money. If it is to be eradicated by the expenditure of a large sum of money, then a loan policy must be followed. Then it is clear that financial equilibrium must be established, and our finances placed on a satisfactory footing, and therefore, it follows that temporary measures of relief such as have been suggested by different speakers will not do.

No one will give you a pice of loan, if you say the taxes are only for three years. The service and repayment of the loan will extend over 25 years at least, but you make provision for three years only. The investor will turn his back and say, "all that is fine but I am not going to give you any money; put your financial position on a better footing and then I will think of it." See the illogicality of the whole thing. If you want a loan to be repaid in 25 years, you must put your finances on a sound footing for at least 25 years. Therefore, for the purpose of a loan it is essential that these Bills must be permanent measures, permanent enactments. That being so, I hope the whole House or a vast majority of it, will throw out all the amendments which have been moved, as disastrous to the best interests of the country. Do not look to the fleeting and evanescent popularity of the moment. Realise the seriousness of your responsibility. I know there is a section of the press which will condemn it, but we are not here to listen to the music or applause of the press, we are here to do our duty according to our lights, and our duty plainly demands that every possible means should be taken for the purpose of

eradicating malaria, and a loan policy is the only possible measure to be taken for its eradication ("Hear, hear"). I do not want to be interrupted. The loan policy is the only possible policy for this purpose. I think that disposes of the question of a loan policy.

I have been asked by my friend Mr. Ajoy Chunder Dutt, whose scruples in this matter I greatly respect, whether the Minister (I think he mentioned my name) has any anti-malarial schemes or anti-malarial policy. What are the schemes which he has undertaken to carry out? Well, Sir, just before I came to the Council, I was discussing with my advisers the possibility of forming a scheme in connection with the revival of the Bhairub, and I was surprised to find my young friend over there, Babu Nalini Nath Roy, objecting to these taxation Bills when, if they are not passed, the reclamation of the Bhairub which is in his own district and in which he is vitally concerned cannot be taken in hand. The Bhairab is a great scheme and will cost about Rs. 35 lakhs. It is divided into two sections, the second section is the most important and will cost about Rs. 20 lakhs. I have just asked our Engineers to frame a scheme and let me have an estimate of the cost, so that I may be able to lay it before the Council as soon as it is ready. This is a great measure which has been held in abeyance for a period of nearly 10 years, and now I want to take it up, but you—at least some of you—will not allow me, for you will not pass these Bills. Therefore, in the name of suffering humanity, in the interests of the people of Bengal and in the high interests of public health, you ought to reject these motions and not place these Bills upon a temporary footing. Mr. Ajoy Chunder Dutt will realise that we are preparing schemes. They are not bogus, hocus-pocus things and hole-and-corner affairs: they will be public documents which will require the sanction of the Council. Once again I beg of this Council to rise to the height of its obligations, and to support a loan policy upon which the health, the educational and industrial development of this province so largely depend. You say you are interested in the activities of the nation building departments. Well, those who are in the responsible charge of the nation-building departments appeal to you to rise to the height of the situation and supply them with funds, in order that they may adequately discharge those responsibilities which you have vested in them, and I may say with the utmost emphasis that they will not be able to discharge their responsibilities, unless and until a loan policy has been supported by you, which can only be done by placing these taxation Bills upon a permanent footing.

Mr. HUSEYN SHAHEED SUHRAWARDY: May I know if the surplus will be ear-marked for the nation-building departments?

The Hon'ble Sir SURENDRA NATH BANERJEA: The loans that I shall ask you to vote for will be ear-marked for them.

Mr. HUSEYN SHAHEED SUHRAWARDY: What proportion of the proceeds of these taxes will be ear-marked for that purpose?

The Hon'ble Sir SURENDRA NATH BANERJEA: I cannot say. That is a different matter.

Babu SURENDRA NATH MALLIK: As I am opposed on principle to this fresh taxation merely for meeting the deficit caused by the growing expense of ordinary administration, I am exceedingly opposed to its being made permanent. But, Sir, so great is the misfortune of my dear motherland that, instead of opposing fresh taxation to meet that crushingly growing expense of administration, even my most esteemed and Hon'ble friend Sir Surendra Nath Banerjea wants to have it made permanent. *O tempora! O mores!* However, as the Council has already accepted the principle, I have to fight for giving it a limited life of only two years form April next My reasons for doing so are these:—

First, when His Excellency addressed this Council on the 21st of November last, he even told us that these taxation measures were to be only temporary for meeting the defict. I quote His Excellency's very words:—

> We regard the allocation of the proceeds of new taxation to the meeting of our deficit as a purely temporary expedient pending further relief on receipt of which the new revenue raised would become available for those schemes of Educational, Industrial, Agricultural, Sanitary and Medical progress which I am sure the Council and the Hon'ble Ministers in charge thereof so earnestly desire to see taken in hand.

The language used by His Excellency is "pending further relief" to which His Excellency says we have a "moral claim." His Excellency asks us to hope for the better but Rai Bahadur Nibaran Chandra Das Gupta says there is no hope in that quarter. I really do not know who is the greater authority and whom to follow. Let us therefore give a life of two years to this Bill and see how the morality of the British Parliament asserts itself in removing the admittedly unjust treatment accorded to us regarding the present financial settlement within these two years which is certainly a sufficiently long time to remove the injustice. It may be that one year may not be sufficient. I also venture to think that one year may be too small for the purpose.

The second reason why I approve of a life of two years only is based on the psychological fact that if once you acquiesce without any reservation and somehow adjust your revenue to meet the gross financial injustice, then not only the Government but this Council itself will lose all enthusiasm in getting the wrong righted and in no time we shall learn to take it as a settled fact.

Not only the Government but we ourselves shall go to sleep over this matter and at the end of the year from to-day even a distant echo of this cry for redress will no longer be audible here. For after all "adjustment to misfortune however great" is the law of nature. For

all wounds are healed by time. To perpetuate the taxes therefore means the perpetuation of the grossest financial injustice ever done to us. Any amount of argument cannot possibly meet this. We want to redress the injustice done to us and no amount of loans or all that can possibly do that.

The third reason why I again approve of this two years' life is that we have a very large number of powerful opponents in other parts of India and outside India who are never tired of repeating an economical fallacy that Bengal is the most lightly taxed province in India. This is wholly wrong, but this is not the time and place to go into details like that. If, therefore, we make these taxes permanent, we shall make it easier for the Government to go on imposing one tax after another and we have already seen the shadow of one cast upon us in the shape of "Death Duties" to be taken up next year. Not for loans—but the fact is this that this deficit is bound to continue so long as the present policy—this wasteful policy—of Government continues. It is useless to say that if once you float a loan all the misfortune of Bengal will be over. It is useless saying that unless you place the taxation Bills on a permanent basis, this misfortune will continue. Wherein lies this misfortune? Why ask for a loan? Why call it a measure for the improvement of education, sanitation and industry? Do the Hon'ble Ministers think that before they came to office there was not a single responsible man during these 60 years to have an idea of these duties? It is useless saying that. The Ministers or Members, whoever they may be, are mere empty show-bottles and they cannot do anything to help us. The proper thing for them to do is to remove the calamity or the great national disaster by stopping the top-heavy bureaucratic administration. Therefore, I would ask my friends not to yield to any of the arguments which have been adduced.

My esteemed friend Mr. P. C. Mitter has said that in the interest of the poor these taxes should be made permanent. It is a beautiful argument! In the interest of the poor go on making the taxes permanent. We are making every tax permanent from salt to sugar, from match-box to railway travelling. All this is due to the Reforms and everything is being done for the poor! We are taxing the poor out of sympathy for them! There is a limit to arguments of this kind. You say that if people want real improvement you must have money, but the real thing is that we benefit the Ministers and Members by providing them with funds. They will not have to trouble themselves over the question of the retrenchment—in fact the whole question of retrenchment will be shelved. They will sleep over it.

Then again take the question of loan. Surely we are not children to suppose that there is hope for us in the future. When we went to Simla, His Excellency the Governor-General gave us distinctly to understand that "we take off Rs. 63 lakhs for three years and we cannot do anything more for you." Even if we have a surplus after three years the

rapacious Central Government will come down—they are more needy than ourselves—for this Rs. 63 lakhs and where then will be the surplus to float a loan upon. We are not children to be deceived by good-goody sentiments of that character. If you want to save the province take up the question in real earnest. If you have strength see that you make retrenchments; if necessary, reduce the cost of these top-heavy administration. In the place of one Lieutuenant-Governor we have so many Governors, Members, Ministers, Chief Secretaries, Secretaries, Deputy Secretaries and all that. Have the courage to say that we do not want them. There is no truth in the statement that it is for the poor that you are going to raise a loan.

There is another reason. His Excellency has already told us—I quote from his frank and outspoken remarks—

> So I must warn the Council, that even with the taxation proposals which we shall put forward, a comparatively small portion of the surplus will be available for new expenditure.

After this, is it for these gentlemen to say that upon a loan, and a loan alone, the salvation of the whole nation depends? I think I should be guided more by His Excellency the Governor than by any other member or Minister, however much he may command the confidence of Government, that very little of the proceeds of these Bills will be available for new works. In fact what can you give us? This reduction that you have made is artificial: you have not made any real retrenchment by the abolition of unnecessary posts, by the amalgamation of posts or things of that description. You have only cut down a portion of the Public Works Department expenses. You will again revert to it as soon as you get a taste of blood. You are absolutely sure to do that. Where then is the surplus? It is merely an eye-wash, and mere play of figures will at once be seen through. That is the reason why I support this resolution for making it operative for two years.

My last reason is that we have only two years' life. Why should we make it for anything more than two years. Why should we tie down our successors hand and foot? We do not know what the financial situation will then be. Even the promise made by the highest personage in the land is not hopeful as regards the adjustment of the financial settlement. Are we to take down everything as a settled fact on account of the promises and protestation of the highest and biggest officers? I do not entertain such an idea. Provided we fight and fight so far as the settlement is concerned we may be able to bring about a satisfactory result. Let us wait and see. Why bind the people who come behind us hand and foot? I think it will be the best course. So far as we are concerned for the purpose of bringing about any material alteration in the situation, to limit it to two years—we are not going to bind our successors, so two years should be the best. Let us forget the question of the poor, the question of loan, and the question of nation-building department at the present moment, for I am sure nothing will be done nothing

can be done and nothing is possible to be done so long as the present policy of Government continues. You will remember that in the new Industries Department Rs. 8,57,000 is the pay of the establishment to superintend over an expenditure of Rs. 1,90,000. That is a policy which is being pursued and you expect so much to be done for the poor by loan and all that. I ask my brethren not to accept this sham, but to limit a duration of the Act to two years only as a temporary measure to cover the present deficit.

Mr. R. H. L. LANGFORD JAMES: I rise to oppose these amendments and I propose to do so in only two or three words. The commercial community of India, both European and Indian, has always been opposed to the form or system of hand-to-mouth budgeting employed by various Governments in this country. It is quite obvious to any commercial man that it would be entirely impossible to build up any business on that system of hand-to-mouth budgeting. The analogy between hand-to-mouth expenditure and hand-to-mouth income is so obvious that to my mind it is equally obvious that every commercial man will necessarily oppose these amendments and be in favour of placing these taxation Bills or this particular taxation Bill on a permanent footing.

Babu AMULYA DHONE ADDY: I beg to support the amendment that this Bill be in force for two years only. I will be very short especially as we have discussed the question for so long a period. I will simply draw your attention to the fact that we should not be charmed by the oratory of the greatest orator of Bengal, rather of India, I mean the Hon'ble Sir Surendra Nath Banerjea. He wants us to raise a loan of 11 millions sterling for the eradication of malaria from Bengal. Is this the time to raise such a loan? Is it not a fact that the money market is now too tight? Can you get a loan on interest at less than 7 per cent. per annum? Now for argument's sake, if you raise a loan at such a heavy rate of interest, then the period of loan ought to be as short as possible. And in that case the rate of contribution to sinking fund must be heavy; it should be at least 2 per cent. Then, Sir, for a loan of a crore of rupees we shall have to pay every year at least 9 lakhs per annum towards the interest and sinking fund. What is this loan for? Is it for financing the construction of the new Hooghly Bridge which will cost at least 3 crores of rupees? We are informed that we shall have a balance if these taxation Bills are passed without any modification at all. We are assured that we shall have a surplus of 20 lakhs of rupees. In that case, the maximum amount of loan that can be raised will be about 2 crores and 20 lakhs of rupees. It is quite insufficient for the purpose stated by the Hon'ble Minister in charge.

The next point I want to draw your attention to is the object of the Bill. It appears from the statement of objects and reasons that the

object of this Bill is to provide additional revenue for this province in order to meet a part of the existing deficit. It does not speak of any surplus. Neither does it speak of any loan. The object is simply to meet the deficit, and that is the reason why the British Indian Association said that they had no objection to the passing of the Bill.

I would draw your attention to the note of dissent of five members of the Select Committee including my humble self. They have suggested that the Bill should be in force for two years only. My object in making this suggestion is to see whether we can curtail the expenditure on Police, and whether we can curtail the expenditure on the civil services—provincial, executive and judicial. We have now received several opinions from various public bodies. It appears that the Bengal Mahajan Sabha, which consists of some of the leading traders of Bengal, has stated that its Committee adhere to the view that the imposition of a burden on Bengal of a more or less permanent character is undesirable from economic as well as political points of view. They fully realise the present financial position of Bengal, and, as such, they are prepared to lend their support to this scheme of taxation as a temporary measure.

There is also the opinion of the East Bengal Landholders Association. They say that any attempt to impose fresh taxation in the present economic condition of the country would be unwise and is undesirable for various reasons. They say that the times are changed, all projects which have as their object the imposition of additional burden on the people, at the present moment, should be abandoned both from economical as well as political points of view. At the same time, they stated that if it was a temporary measure they had no objection. So it appears that the Indian traders of Bengal and the landholders of Eastern Bengal have strongly opposed the enactment of this Bill, but at the same time they have approved of it as a temporary measure in order to meet the deficit.

I beg to draw your attention to the memorable speech of the Right Hon'ble the Secretary of State for India delivered in the House of Commons the other day. He stated that "India is highly taxed. Prices are very heavy, and the people thereof are very poor" and he has also stated that the present unrest in India is due to the economic situation of the world. Now, Sir, he himself has stated that the people of Bengal are very poor and they are heavily taxed, and that is the reason of the present unrest. I beg to suggest that this Bill should be for two years only because if the people come to know that we are going to make the taxes permanent, there will be greater discontent and greater unrest which is not desirable under the present circumstances. I want to see whether the proceeds of the revenue from these taxes will be utilised for the encouragement of technical education, or improvement of sanitation. But if after two years we find that a substantial portion of this revenue is being utilised for the encouragement of technical education, and the improvement of sanitation then we will be quite justified in moving again that this law be made a permanent one.

Mr. D. C. GHOSE: I move that the question be now put.

The DEPUTY-PRESIDENT (Babu Surendra Nath Ray): The Hon'ble Mr. Kerr has not yet replied.

At this stage the Council was adjourned for 20 minutes.

After the adjournment.

Rai JOGENDRA CHUNDER GHOSE Bahadur: I am one of those who opposed this Bill when it was first introduced. I gave my reasons and so did Colonel Pugh. I supported it again at a later stage when it was sought to be passed, but I must say that the amendments limiting its operation to one year, two years, and three years proposed by Shah Syed Emdadul Haq, Maulvi Abeul Jubbar Pahlowan, Mr. Tarit Bhushan Roy and other gentlemen are not tenable. The stamp duty carries with it a certain degree of permanency A mortgage bond or a conveyance cannot be lightly dealt with; the stamp duty payable on them cannot change according to the changing minds of the members of Council. It is opposed to all ideas of the principles of judicial procedure, and of business. The midway course to please the Government, pleases neither the Government, or any other person. I have read a little bit of law, and I find that this procedure is opposed to all principles of law. I have also read a little bit of the constitutional history of several countries, and I find no precedent for a stamp duty, or increase of stamp duty or an increase in court-fee duty, being a temporary measure. There is no precedent for it, and I believe the Bengal Legislative Council is not going to make a new precendent and be a law unto itself.

The Hon'ble Mr. J. H. KERR: This formidable pamphlet contains 124 amendments to this Bill, and except a few formal amendments for which I am myself responsible, at the instance of the Legislative Department, the rest are designed for the purpose of whittling down the provisions of the Bill in one form or another. No one need be surprised at that, and I have no cause of complaint with this attitude on the part of members of this Council. Faced for the first time in history with a provincial taxation Bill it is only natural that members should do their best to turn that Bill into a form which, in their view, will do as little harm as possible; but let me remind the Council once again what a very narrow margin of safety we have provided by these Bills. As I have said before, the total revenue which we expect to get from these Bills, if they are passed substantially in their existing form, is Rs. 140 lakhs or only Rs. 20 lakhs more than our estimated deficit for next year. If the operation of these Bills is limited to one year, two years, or three years, it will, as I shall proceed to show, be necessary to regard this Rs. 20 lakhs surplus for next year as the sole advantage which we shall derive from these Bills. The reserved departments will have to rub along very much as they do at present, and many members of this Council will no doubt say that this is quite good enough for the reserved

departments; but the transferred departments also will have to rub along on existing lines, and it would be entirely contrary to the tenor of the many speeches that have been made, and the many resolutions that have been moved in this House during the past year, if we were asked to believe that the majority of the members of this Council would look with complacency on a situation in which the transferred departments would be able to do no more than they have been hitherto doing. Many members, as was only natural, have pressed for particulars as to the manner in which the transferred departments will benefit if we get these taxation Bills through as permanent measures and are enabled to utilise to the full such surplus as we may obtain. Well, as I have explained before, this is a matter in regard to which we cannot lay our detailed proposals before the House until we are sure of our surplus, and know what our surplus is going to be, but we have been considering that matter during the past week, and we have come to some preliminary conclusion. These must be preliminary because as we have been told several times in recent debates, it is no use counting our chickens before they are hatched. Assuming that we get approximately the number of chickens that we hope to get out of these Bills, we should have next year a revenue surplus of Rs. 60 lakhs, and that surplus may be increased if we can put some of the capital expenditure provided for in next year's budget on to a loan, but for the present I shall assume that the figure stands at Rs. 60 lakhs. Out of that Rs. 60 lakhs we propose to reserve Rs. 10 lakhs for the service of a loan, and the balance of Rs. 50 lakhs, on a rough estimate of our position, we hope to be able to distribute between the reserved and transferred departments in a proportion which will reverse the proportions of the existing budget provision for these departments; that is to say, we hope to be able to give the transferred departments two-thirds of the surplus, and reserve one-third for the reserved departments. ("Hear, hear.") This proportion is calculated on a basis of the Rs. 60 lakhs revenue surplus, and, of course, the proportion will be subject to variation if the surplus varies one way or the other, but I give these figures to the Council as indicating the intention of Government in the event of these taxation Bills being allowed to go through a permanent form, and I think they can be taken as an indication of the manner in which it is proposed to deal with our surplus funds, if by any chance our surplus was larger. I suggest to the Council, therefore, that these are substantial, solid reasons for allowing these Bills to go through in a permanent form.

Let me now examine briefly the arguments which have been adduced in favour of the imposition of a time-limit. First of all, we had Rai Radha Charan Pal Bahadur complaining that this Bill had been conceived in a hurry, and that it was not safe to let it go through for longer than a year. That argument, I think, is based on a misapprehension. The Rai Bahadur, as I said once before, seems to think that no Bill can be regarded as respectable unless it is the off-spring of a committee, but this Bill is the off-spring of a thoroughly respectable committee which included the

President of the Bengal Chamber of Commerce, the President of the Bengal National Chamber of Commerce and Mr. Jatindra Nath Basu, who is specially qualified by reason of his profession for dealing with matters of this kind; so I think that this Bill could not have had more respectable parents or more responsible sponsors; and we can safely take it, on their authority, as a measure which is fit for our consideration.

Then Mr. Tarit Bhusan Roy objected that the Bill imposed taxation on the poor, and especially on the rural poor. That again, I think, indicates a considerable misapprehension of the position. This Bill hardly affects the poor at all. I do not say that it does not affect the poor in any way, but it certainly does not affect the poor to the same extent as the other Bills which the Council will have to consider in the next few days. This Bill affects those who desire to dispose of property or to acquire property and the majority of these people are well-to-do. A large proportion of them live in Calcutta. At the present moment, 60 per cent. of our stamp revenue comes from Calcutta, and I have no doubt that a very similar proportion will be obtained from any excess revenue that we may get under this Bill. So the point that this Bill will affect the rural poor, may, I think, be disregarded.

Then we had the argument about retrenchment. Some members have said let us wait and see what the Government is going to do in this matter; do not let us remove the incentive of Government to carry out retrenchment by providing them with a large surplus. In this connection, some members seem to have misunderstood what I said about retrenchment the other evening. I did not bang the door against retrenchment at all. I emphasised the fact that we have always met the Council in the matter of retrenchment inquiries, and that we are anxious to continue the same policy. The Council has very large powers of control over expenditure, and we are only too anxious to take the Council into our confidence in the matter of justifying our expenditure, but I felt it my duty to point out to the Council the difficulties in the way of retrenchment and to show what a long and arduous task any serious effort at retrenchment must be. I also warned them that experience suggests that the efforts of a Retrenchment Committee might result in no economy, but in considerable increase of expenditure.

Many members have mentioned the Geddes Committee's report in England. As I have said before, the conditions in India and England are not comparable, and I will not repeat what I said the other night on this point, but as far as I can understand from the newspapers, the Geddes report is still a report, and has not yet been followed by any effective action, and we know that important interests are opposed to the proposals put forward by that Committee. Before we decide to follow the same line of action, we may very well wait and see what the actual practical results of the Geddes Committee's report are. Here, in Bengal we have a committee on police expenditure which has been sitting for some months. The members of that Committee know the difficulties they

have experienced, and I suggest that their experience will be of value to the Council in deciding whether any further inquiries of this kind should be undertaken. At all events, as I have said, we are very anxious to meet the wishes of the Council in the matter of retrenchment inquiries, and are quite prepared to consider that matter further at the proper time.

Then Babu Surendra Nath Mallik seems to sigh for the old days of the Lieutenant-Governors. If he is prepared to revert to the old days of autocracy and irresponsibility, to sweep away the whole of these Reforms, to reduce this Council to 20 or 30 members, sweep away you, Sir, out of that chair and replace you by a Governor or a Lieutenant Governor, the saving would be much less than he imagines. As Mr. Spry showed the other night, the increased expense which we have incurred in consequence of the introduction of the Reforms is only about Rs 5½ lakhs. Everybody must realise that the introduction of a popular system of Government with Ministers and all the rest of it, must increase the work at headquarters, and must lead to increased expenditure on the top, but Rs. 5 or 6 lakhs is the limit of the retrenchment that we could effect if we did away with the reformed constitution and went back to the old system, and we should have to do a great deal more in the way of retrenchment than that, in order to make any real difference in our financial position.

Then we come to the remarks which were made about setting aside the Meston award, and reference was made to the speech which His Excellency delivered in this Council on the 21st November last. His Excellency then said that he asked the Council to regard these taxation proposals as temporary measures which in the event of our just demands being met, could be used for the furtherance of those objects on the transferred side which the Ministers and Members of this Council have so much at heart. But His Excellency never suggested that we should label these Bills with time-limits of any kind. What he had in view was that we have a hard battle to fight in regard to securing a revision of the financial settlement. We have no intention of relaxing our efforts in that fight, but it is no use our pretending that we are certain of victory. We are going to do our best, and we know that other provinces are going to join us in that fight. Sir Malcolm Hailey said in his budget speech the other day that, at a later stage of the year, he would summon the financial authorities of the various provinces to discuss this matter with him. When we go to this Conference we shall be prepared to fight Bengal's cause as strongly as we have ever done, and we shall be prepared to assert that the case of Bengal is stronger than that of any of the other provinces. Mr. A. C. Dutt suggested the contrary rather to my surprise, but it must be remembered, that it was in respect of Bengal alone that the Joint Parliamentary Committee made a recommendation for special consideration, so that the case of Bengal is stronger than that of the other provinces, and we shall do our best to prove it. But, looking at

the financial plight of the Government of India at the present moment, I ask the Council if there is any prospect of their being able to provide us with further funds in the next year or two. I think those who have studied Sir Malcolm Hailey's budget can have only one view about that question.

Mr. Surendra Nath Mallik further suggested that, if we are provided with a comfortable surplus, there is a danger of our going to sleep. I do not think there is any danger of that, because the Government of India have remitted our contribution for only three years, and that uncomfortable feature in the situation alone would serve to keep us awake even if we were inclined to go to sleep.

Then as regards the question of a loan policy. Naturally, I regard the matter from the dry financial aspect. I have no schemes of my own to put on to a loan, and what other departments will do with a loan is for them to justify, but I would appeal to all the members of this Council who have any business experience, to say whether it is a sound thing for a Government like ours to go on financing its capital expenditure out of revenue. We have had to do that hitherto because we had practically no independent means of our own, we have had to depend upon the settlement made by the Government of India, and on the doles which the Government of India have allowed us from time to time, but now we have our independent sources of revenue, inadequate though they be, and if we are going to put them on a sound footing, I submit that, as a business proposition, it is a sound thing for us to put our capital expenditure on to a loan and so increase the utility of our revenue resources.

Then, it is said, if things turn out better than we expect at the present moment, and we are rolling in a huge surplus at the end of three years, this Council or its successor ought to have a chance of repealing these taxation Bills. I say if that state of affairs come to pass, no Government could retain on its Statute Book taxation measures which gave it a larger revenue than it legitimately required. The Council has many ways of securing the repeal or modification of taxation measures which are unnecessary. If these Bills are passed without any time-limit, there will be no bar at all to the Council reconsidering this matter three years hence. If we then find that we do not need the whole of the revenue which we get from the Bills, it will be open to the Council to modify the Bills and to reduce the rates so far as they affect the poorer class, or repeal them altogether if they are not required.

I would like to develop for one moment the very interesting and trenchant argument used by Mr. Langford James. As a business proposition is it sound to keep our finances in this state of flux and uncertainty? Suppose all these Bills are limited to two years only, what will inevitably happen? The Bills will form the issue at the general election which will take place towards the end of that period. What the conditions will be at that election nobody can prophesy, but there is at least a possibility that the new Council would come in, pledged to repeal these

Bills. In these circumstances, Sir, could Government in any way count on these Bills or make any use of the surplus provided by these Bills? Kumar Shib Shekhareswar Ray has agreed that it is unsound to impose a two-year limit on the ground that the new Council would not be pleased if we asked them to come to this Chamber two years hence faced with the prospect of a huge deficit with very little time to make up their minds as to how to meet that deficit. A very similar argument applies to the proposal to limit the Bill to three years. The time-limit, I suggest, will be of no real value as a safeguard to the Council or as a stimulus to the activities of Government in improving its financial position in other ways. On the other hand, if we get the Bills through as a permanent measure, that is, as a measure on which we could rely until we could improve our resources in other ways, then we would get the solid advantages which I have mentioned and we could make the most of the slender surplus which is all we can expect. If, on the other hand, a time-limit is imposed, we are prevented from making the best possible use of the sacrifices which the country is being called upon to make by the imposition of these taxation measures. Having regard to these circumstances, I venture to urge the Council, as strongly as I can, that it would be a great mistake to impose the time-limits that are suggested in these amendments.

Mr. HUSEYN SHAHEED SUHRAWARDY: With your permission, I would like to ask the Hon'ble Mr. Kerr whether, two years hence, if we have to pay Rs. 63 lakhs to the Government of India, we shall be in exactly the same position as regards the deficit of Rs. 40 lakhs.

The Hon'ble Mr. J. H. KERR: I do not think that this is a question which can be fairly asked at this stage. We cannot at the present moment answer a hypothetical question as to what the position will be two years hence.

Mr. W. L. TRAVERS: I beg to move that the question be now put.

The motion that the question be put was then put and agreed to.

The following motion was then put and lost:—

That at the end of clause 1 (3), the folowing be added, namely,—— ' and shall remain in force for one year.'

The following motion was then put and a division taken with the following result:—

That for clause 1 (3), the following be substituted, namely,—

' (3) It shall come into force on the first day of April, 1922, and shall remain in force for a period of two years from that date.'

AYES.

Addy, Babu Amulya Dhone.
Ahmed, Maulvi Kazi Uddin.
Ahmed, Khwaja Jafar.
Alay, Mr. S. Habibeb.
Ali, Khwaja Amir.
Chaudhuri, Babu Khetri Mohan.

Chaudhuri, Khan Bahadur Maulvi Hafizar Rahman.
Chaudhuri, Maulvi Shah Muhammad.
Das, Babu Bhishmadev.
Dutta, Babu Indu Bhushan.
Haq, Shah Syed Emdadul.
Khan, Maulvi Hamid-ud-din.
Maitk, Babu Surendra Nath.
Maitra, Dr. Jatindra Nath
Mukharji, Babu Satish Chandra.
Mukherji, Professor S. C.
Mullick, Babu Nirode Behary.
Nasker, Babu Hem Chandra.
Pahlewan, Maulvi Md. Abdul Jubbar.
Pal, Rai Bahadur Radha Charan.
Ray, Rai Bahadur Upendra Lal.
Roy, Babu Nalini Nath.
Nay, Mr. Tarit Bhusan.
Sarkar, Babu Nishindra Nath.
Suhrawardy, Mr. Huseyn Shaheed.

NOES.

Afzal, Nawabzada K. M., Khan Bahadur.
Ahmed, Khan Bahadur, Maulvi Wasimuddin.
Ahmed, Maulvi Yakuinuddin.
Ali, Mr. Syed Erfan.
Ali, Munshi Ayub.
Aly, Maulvi Saiyid Hossain.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, the Hon'ble Sir Surendra Nath.
Banerjee, Rai Bahadur Abinash Chandra.
Band, Mr. R. N.
Basu, Babu Jatindra Nath.
Bhattacharji, Babu Hem Chandra.
Biss, Mr. E. E.
Bompas, Mr. C. H.
Bose, Mr. S. M.
Carey, Mr. W. L.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
Das, Mr. S. R.
Das Cupta, Rai Bahadur Nibaran Chandra.
De, Babu Panindralal.
Deare, Lieutenant-Colonel B. N.
DeLisle, Mr. J. A.
Dutt, Mr. Ajoy Chundr.
Duval, Mr. H. P.
French, Mr. P. C.
Forrester, Mr. J. Campbell.
Ghose, Mr. D. C.
Ghose, Rai Bahadur Jogendra Chunder.
Goode, Mr. S. W.
Gupta, Mr. J. N.
Hopkyns, Mr. W. S.
Huntingford, Mr. G. T.
James, Mr. R. H. L. Langford.
Kerr, the Hon'ble Mr. J. H.
Khan, Mr. Nazaur Rahman.
Lang, Mr. J.
Law, Raja Reshee Case.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble.
Mitter, the Hon'ble Mr. P. C.
Nakey, Mirza Muhammad Ali.
Parrett, Mr. P.
Poddar, Babu Kesheram.
Pugh, Colonel A. J.
Rae, Mr. W. N.
Rahim, the Hon'ble Sir Abdur.
Ray Chaudhuri, Mr. Krishna Chandra.
Ray Choudhury, Raja Manmatha Nath.
Roy, Babu Jogendra Nath.
Ray, Maharaja Bahadur Kshaunish Chandra
Roy, Mr. Bijoy Prosad Singh.
Roy, Rai Bahadur Lalit Mohan Singh.
Spry, Mr. N. E.
Stephenson, Mr. H. L.
Suhrawardy, Dr. A.
Suhrawardy, Dr. Hassan.
Swan, Mr. J. A. L.
Travers, Mr. W. L.
Walsh, Mr. C. P.
Wordsworth, Mr. W. C.

The Ayes being 25 and the Noes 59, the motion was lost.

The following motion was then put and a division taken with the following result:—

That after clause 1 (3), the following be added, namely,—

'(4) It shall remain in force for three years from the date of its commencement.'

AYES.

Addy, Babu Amulya Dhone.
Ahmed, Maulvi Kazi Uddin.
Ahmed, Munshi Jafar.
Aley, Mr. S. Mahboob.
Ali, Munshi Amir.
Bhattacharji, Babu Hem Chandra.
Chaudhuri, Babu Kishori Mohan
Chaudhuri, Khan Bahadur Maulvi Hafizar Rahman.
Chaudhuri, Maulvi Shah Muhammad.
Chaudhuri, Sir Ashutosh.
Das, Babu Bhishmadev.
Dutta, Babu Indu Bhushan.
Haq, Shah Syed Emdadul.
Khan, Maulvi Hamid-ud-din.
Maitk, Babu Surendra Nath.
Mitra, Rai Bahadur Mahendra Chandra.
Maitra, Dr. Jatindra Nath.
Mukharji, Babu Satish Chandra.
Mukherji, Professor S. C.
Mullick, Babu Nirode Behary.
Nasker, Babu Hem Chandra.
Pahlewan, Maulvi Md. Abdul Jubbar.
Pal, Rai Bahadur Radha Charan.

Ray, Kumar Shib Shekhareswar.
Ray, Rai Bahadur Upendra Lal.
Roy, Babu Nalini Nath.
Roy, Mr. Tarit Bhusan.
Roy Chaudhuri, Babu Satish Nath.
Sarkar, Babu Nishindra Nath.
Suhrawardy, Mr. Hussyn Shaheed.

NOES.

Afzal, Nawabzada K. M., Khan Bahadur.
Ahmed, Khan Bahadur, Maulvi Wasimuddin.
Ahmed, Maulvi Yakubuddin.
Aly, Maulvi Saiyid Nessain.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, the Hon'ble Sir Surendra Nath.
Banerjea, Rai Bahadur Abinash Chandra.
Band, Mr. R. N.
Basu, Babu Jatindra Nath.
Bise, Mr. E. E.
Bompas, Mr. C. H.
Bose, Mr. S. M.
Carey, Mr. W. L.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
Das, Mr. S. R.
Das Gupta, Rai Bahadur Niharan Chandra.
De, Babu Panindralal.
Deare, Lieutenant-Colonel S. H.
DeLisle, Mr. J. A.
Duval, Mr. H. P.
French, Mr. F. C.
Forrester, Mr. J. Campbell.
Ghose, Mr. D. C.
Ghose, Rai Bahadur Jogendra Chunder.
Goode, Mr. S. W.
Gupta, Mr. J. N.
Hopkyns, Mr. W. S.
Huntingford, Mr. G. T.
James, Mr. R. H. L. Langford.
Kerr, the Hon'ble Mr. J. H.
Khan, Mr. Razaur Rahman.
Lang, Mr. J.
Law, Raja Roshee Case.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble.
Mitter, the Hon'ble Mr. P. C.
Nakey, Mirza Muhammad Ali.
Parrett, Mr. P.
Peddar, Babu Kesheram.
Pugh, Colonel A. J.
Rae, Mr. W. R.
Rahim, the Hon'ble Sir Abd-ur-
Ray Choudhury, Raja Manmatha Nath.
Ray, Babu Jogendra Nath.
Roy, Maharaja Bahadur Kshaunish Chandra.
Roy, Mr. Bijoy Prosad Singh.
Ray, Rai Bahadur Lalit Mohan Singh.
Spry, Mr. H. E.
Stephenson, Mr. H. L.
Suhrawardy, Dr. A.
Suhrawardy, Dr. Hassan.
Swan, Mr. J. A. L.
Travers, Mr. W. L.
Walsh, Mr. C. F.
Wordsworth, Mr. W. C.

The Ayes being 30 and the Noes 54, the motion was lost.

The DEPUTY-PRESIDENT: Babu Kishori Mohan Chaudhuri, do you press your amendment?

Babu KISHORI MOHAN CHAUDHURI: It is incidental and consequently fails.

The DEPUTY-PRESIDENT: The question that I have to put is that clause 1 do stand part of the Bill.

The motion was then put and agreed to.

Clauses 2, 3, 4, 5 and 5A.

The DEPUTY-PRESIDENT: As there are no amendments proposed to these clauses, that question that I have to put is that they stand part of the Bill.

The motion was then put and agreed to.

Adjournment.

The Council was then adjourned till 3 P.M. on Thursday, the 9th March, 1922, at the Town Hall, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber in the Town Hall, Calcutta, at 3 P.M. on Thursday, the 9th March, 1922.

Present:

The Deputy-President in the Chair, three Hon'ble Members of the Executive Council (the Hon'ble Sir Henry Wheeler being absent), the Hon'ble the three Ministers and 90 nominated and elected members.

Starred Question

(to which oral answer was given).

Memorial by the Protestant Missionaries regarding the oppression by Zamindars.

*XXIX. **Mr. SYED ERFAN ALI:** (*a*) Is the Hon'ble the Member in charge of the Department of Revenue (Land Revenue) aware that the Protestant missionaries resident in or near Calcutta submitted a memorial in 1855 to the Imperial Legislative Council of India on behalf of the tenants of Bengal regarding the oppression by the Zamindars?

(*b*) If so, will the Hon'ble the Member be pleased to lay on the table a copy of the said memorial?

(*c*) Will the Hon'ble the Member be pleased to state how far and to what extent effect has been given to such memorial?

MEMBER in charge of DEPARTMENT of REVENUE [LAND Revenue] (the Hon'ble the Maharajadhiraja Bahadur of Burdwan): (*a*) The record of any such memorial would presumably be in the archives of the Government of India it is not traceable in the records of the Revenue Department.

(*b*) and (*c*) These questions do not arise.

Unstarred Questions

(answers to which were laid on the table).

Rules for the selection of sub-registrars for district sub-registrarships.

225. Babu BHISHMADEV DAS: (*a*) Will the Hon'ble the Minister in charge of the Department of Education be pleased to state whether the existing rules for the selection of sub-registrars for district sub-registrarships have recently been cancelled?

(*b*) If so, will the Hon'ble the Minister be pleased to state whether any rules have been framed in their place?

(*c*) If not, will the Hon'ble the Minister be pleased to state how selections are now made?

(*d*) Are the Government considering the desirability of instituting an inquiry to ascertain the views and wishes of the officers of the Department?

MINISTER in charge of DEPARTMENT of EDUCATION (the Hon'ble Mr. P. C. Mitter): (*a*) and (*b*) The rules have been modified.

(*c*) A copy of Government order No. 2163 Mis., dated the 26th October, 1921, prescribing the new procedure, is laid on the table.

(*d*) No.

Copy of Government order referred to in the reply to clause (c) of unstarred question No. 225.

No. 2163 Mis., dated Calcutta, the 26th October, 1921.

From—L. S. S. O'MALLEY, ESQ., C.I.E., I.C.S., Secretary to the Government of Bengal, Education Department,

To—The Inspector-General of Registration, Bengal.

In supersession of the orders contained in the Revenue Department letter No. 1000 T.—R., dated the 7th September, 1917, on the subject of filling up vacancies in the ranks of district sub-registrars, I am directed to say that the Government of Bengal (Ministry of Education) do not consider it necessary or expedient to lay down any hard and fast rule on the subject. They desire, however, that promotions to the posts of district sub-registrars should be made on some definite principle and accordingly direct that in future vacancies for periods not exceeding six weeks should ordinarily be filled by the most efficient and senior officer in the district and longer or permanent vacancies by the most efficient and senior officer in the Province.

2. I am to request that these orders may be communicated to all District Registrars.

Permanent retention of the Co-operative Department.

228. Babu ANNADA CHARAN DUTTA: (*a*) Will the Hon'ble the Minister in charge of the Department of Agriculture and Industries be pleased to state whether the sanction of the Secretary of State for India to the permanent retention of the Co-operative Department has been obtained?

(*b*) If so, are the Government contemplating making the Department permanent this year?

(*c*) Will the Hon'ble the Minister be pleased to lay a statement on the table showing—

(*i*) the number of Inspectors in the Department;

(*ii*) the number appointed by direct recruitment; and

(*iii*) the number appointed from Sub-Deputy Collectors?

(d) Will the Hon'ble the Minister be pleased to state whether the Inspectors recruited direct do the same work as the Sub-Deputy Collector-Inspectors do?

(e) Is it a fact that the Sub-Deputy Collector-Inspectors get a deputation allowance of Rs. 50 a month in addition to their pay which has been increased to Rs. 450?

(f) Is it a fact that for all the direct recruits there is only one appointment from Rs. 150 to Rs. 200 and five appointments from Rs. 100 to Rs. 150 and the remainder are fixed at Rs. 105 a month?

(g) Is it a fact that these officers were given Rs. 105 a month for the purposes of making them second class officers?

(h) Is it a fact that the recent travelling allowance rules published in the *Calcutta Gazette, Extraordinary*, dated the 23rd December, 1921, act as a bar to many Co-operative Inspectors, who have been for many years drawing Rs. 105 a month, and getting second class travelling allowance, drawing such allowances in future?

(i) Are the Government contemplating exercising the power given under rule 2, chapter 1, section 1 of the Travelling Allowance Rules in the case of these officers?

(j) Is the Hon'ble the Minister aware that the Maclagan Committee on Co-operation, the Eleventh Provincial Co-operative Conference, and the Conference of the departmental heads of the departments under the Ministry of Agriculture and Industries, recommended that the pay and status of the Co-operative Inspectors should immediately be considerably improved and that their pay should commence at a figure not lower than that of a Sub-Deputy Collector and rise by periodical increments?

(k) Are the Government contemplating revising the pay and status of these officers this year?

(l) Will the Hon'ble the Minister be pleased to state whether the posts of the Assistant Registrars are open to Divisional Auditors and senior Inspectors? If not, what are the reasons for it?

MINISTER in charge of DEPARTMENT of AGRICULTURE and INDUSTRIES (the Hon'ble the Nawab Saiyid Nawab Ali Chaudhuri, Khan Bahadur): (a) The Secretary of State has sanctioned the permanent retention of the Registrar of Co-operative Societies and his Personal Assistant and the Superior staff required to assist him, *viz.*, one Deputy Registrar and six Assistant Registrars, for the control of the co-operative societies in this Presidency.

(b) Proposals for the reorganisation of the subordinate staff of the Co-operative Department on a permanent basis are at present under consideration.

(c) (i), (ii) and (iii) A statement is laid on the table.

(*d*) The answer is in the affirmative.

(*e*) The Sub-Deputy Collectors employed as Inspectors of Co-operative Societies are allowed a duty allowance of Rs. 50 a month in addition to their pay on the time-scale of pay.

(*f*) The Inspectors are at present in three grades: one in Class I (Rs 150—10—200): six in Class II (Rs. 100—10—150) and 42 in Class III (Rs 105).

(*g*) Yes.

(*h*) Yes.

(*i*) These officers have been declared to be second class officers for the purposes of calculating their travelling allowance.

(*j*) The Committee on Co-operation in India recommended that the pay of the staff maintained by Government for super-audit should commence at a figure not lower than that of a Sub-Deputy Collector and rise by periodic increments. The Conference of the Department of Agriculture and Industries held in April, 1921, agreed that the pay and status of the Inspectors should be considerably improved. As regards the recommendations of the Eleventh Provincial Conference of Co-operative Societies held in March, 1921, the member is referred to the answer given to question 163 (*a*) asked by Maulvi Mahammed Madassur Hussain at the meeting of the Council held on the 21st February, 1922.

(*k*) The member is referred to the answer to the question mentioned above.

(*l*) The posts of Assistant Registrars of Co-operative Societies are included in the cadre of the Bengal Civil Service, Executive Branch. Government consider this arrangement necessary to secure the type of officer required for these posts.

Statement showing the number of Inspectors of Co-operative Societies employed, referred to in the reply to clause (c) of unstarred question No. 226.

Total number of Inspectors employed—66 *

Total number appointed by direct recruitment—49.

Total number recruited from Sub-Deputy Collectors—15.

*This indicates two Sub-Registrars on deputation.

Closing of the road connecting the Ballygunge Store Road and Ballygunge Circular Road to the public.

227. Mr. D. C. GHOSE: (*a*) Is the Hon'ble the Member in charge of the Political Department aware that the public road connecting

Ballygunge Store Road and Ballygunge Circular Road has recently been closed to the public by the military authorities?

(*b*) Is the Hon'ble Member aware that this road was used by the public without interruption for over 30 years?

(*c*) Will the Hon'ble the Member be pleased to state the authority under which the road has been closed and gates placed across it and warning boards at either ends?

(*d*) Are the Government considering the desirability of reopening this road to the public?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Sir Henry Wheeler): (*a*) Government are informed that the military road passing through the Ballygunge lines has recently been closed to motor traffic

(*b*) It is understood that the use of this road by the public has always been subject to the rights of the Military Department which have been preserved by sentries.

(*c*) and (*d*) The gates have been placed across the road under the authority of the General Officer Commanding, Presidency and Assam District, with the intention of preventing through motor traffic. The matter is within his jurisdiction.

Kukri Mukri "char" in Bakarganj.

228. Maulvi FAZLAL KARIM: (*a*) Will the Hon'ble the Member in charge of the Department of Revenue (Land Revenue) be pleased to state whether it is a fact—

(*i*) That the *char* Kukri Mukri in the district of Bakarganj was settled with the raiyats two or three years ago;

(*ii*) That many people died of cholera and abandoned the *char*;

(*iii*) That during the last year or so, many of the coolies who were taken there to excavate tanks, died of cholera and the rest left the place leaving the works incomplete; and

(*iv*) That that *char* and some other *chars* have been settled with raiyats this year also?

(*b*) Will the Hon'ble the Member be pleased to state what precautionary measures, if any, have the Government taken or are going to take to save the lives of the people who have taken lease of those lands, from the attack of cholera and similar other diseases?

(*c*) Is the Hon'ble the Member aware that those *chars* in the Bay of Bengal are far off from the mainland and that it is not always possible to cross the river in order to take doctors from the mainland?

(*d*) Are the Government considering the desirability of deputing doctors to those *chars* to help those people when sick?

The Hon'ble the MAHARAJADHIRAJA BAHADUR of BURDWAN: (*a*) (*i*) and (*ii*) Yes; in 1920, lands in *char* Kukri Mukri

were settled with 600 persons who went there in the month of Falgun. Among them 20 persons died of cholera and the rest left the *char*.

(*iii*) Last year 200 coolies were employed by Government to excavate tanks, of whom two died of cholera.* The coolies did not leave the *char* until the work was executed.

(*iv*) Yes.

(*b*) As a precautionary measure against cholera, etc., Government have excavated and reserved two tanks which supply good drinking water. A medical practitioner has been promised 75 bighas of land in one of the blocks of the *char* on condition that he will keep a stock of medicines in the *char* from now. A dispensary will be started in the *char* as soon as the colonists settle there after reclamation.

(*c*) *Char* Kukri Mukri is at a distance of about 20 miles from the mainland. It is not accessible by country-boats except in winter.

(*d*) The member is referred to the reply to (*b*) above.

New buildings at Kharagpur.

229. Babu DEVENDRA LAL KHAN: (*a*) Will the Hon'ble the Minister in charge of the Department of Public Works be pleased to state the purposes for which the new buildings at Kharagpur are being used, or are intended to be used?

(*b*) Is it a fact that the authorities of the Bengal-Nagpur Railway and Messrs. Tata & Co. are willing to purchase the said buildings?

(*c*) Are the Government carrying on any negotiations with them, and if so, with what results?

MINISTER in charge of DEPARTMENT of PUBLIC WORKS (the Hon'ble the Nawab Saiyid Nawab Ali Chaudhuri, Khan Bahadur): (*a*) A few of the buildings are occupied by the Executive Engineer in charge of the Hijli Public Works Department Division and his staff, as office and residences.

The various departments of Government have been invited to state whether they have any schemes to suggest for the utilization of the buildings and land.

(*b*) No proposals have been received from these firms.

(*c*) No.

Government Bills.

The Bengal Stamp (Amendment) Bill, 1922.

Clause 5B.

MEMBER in charge of DEPARTMENT of FINANCE (the Hon'ble Mr. J. H. Kerr): I move that in clause 5B, line 1, after the words and

figures ' after section 6 ' the words ' of the said Act ' be inserted. It is a purely formal drafting amendment.

The motion was put and agreed to.

Kumar SHIB SHEKHARESWAR RAY: I beg that in clause 5B, in proposed new section 6A (2) , lines 4 to 6, for the words ' unless the duty chargeable under this section has been paid thereon,' the following be substituted, namely :—

" except on payment thereon of the duty chargeable under this section.'

In my amendment I merely want to obviate any legal difficulty that may crop up in future. This section 6A is a new one and in clause(2) we are legislating that no such instrument or copy thereof chargeable with duty shall be received in evidence unless the duty chargeable thereon *has been paid*. If this clause is passed as it stands, the judicial interpretation would naturally be that if such document be produced and be not already properly stamped, its evidentiary value will be gone, and nothing, not even payment of the requisite duty, will rehabilitate it in its proper position. That would be a very harsh law. For these charges in stamp duty are new and drastic, and mistakes, for some time to come, will go on happening. Sir, it is quite an unthinkable misfortune that in this way a large number of documents having the greatest evidentiary value would lose their character altogether, past all hope of recovery.

Then again, Sir, this section itself is new having a novelty in its very drasticness. Section 35 of the present Act of 1899 deals with very similar situations. It lays down in proviso (*a*) " that any such instrument. . . shall, subject to *all just exceptions*, be admitted in evidence *on payment of the duty* with which it is chargeable, or in the case of an instrument insufficiently stamped, of the amount required to make up such duty. . . ." So, Sir, it will be seen that section 35 of the present Act dealing with almost identical matters, has two sets of safeguards First, by the words " subject to all just exceptions " it gives a wide discretionary power to the Court in case of *bond fide* mistakes or omissions, and secondly, by the words " on payment of the chargeable duty " it holds that the evidentiary value of such an instrument will not be lost for all time but that on payment of the proper duty, it can be revived

The proposed clause has none of these safeguards and so, as I have said before, will operate very harshly even in cases of *bond fide* mistakes. This is a serious defect of this clause and ought to be rectified.

I hope that my amendment which aims at setting the matter right will be accepted by the Government.

SECRETARY to GOVERNMENT, FINANCE DEPARTMENT (Mr. H. E. Spry): I can tell the Kumar Sahib at the outset that the object he has in view in bringing forward this amendment is one which has the full sympathy of Government. At the same time, I think the

Kumar Sahib does not quite appreciate the application of the law to the point he has in mind. Section 35 of the Stamp Act which deals with the (admissibility) of insufficiently stamped instruments and to which he has referred, applies equally to the documents described in this new section 6A. The position is this. A principal instrument, which is liable to additional stamp duty by reason of it being received in Bengal, and having reference to properties situated within Bengal, will, under section 35, be inadmissible in evidence unless the full duty and also the penalty provided by that section have been paid When the amendment of the Kumar Sahib was received it was understood that his intention was that these general provisions of the law should not be extended to the particular class of documents which are dealt with in sub-section (2) of the new section 6A. That is to say, it was thought that the Kumar Sahib wished some preferential treatment to be shown to this special class of document, namely, duplicates, counterparts and copies, inasmuch as the clause is an entirely new one and some misunderstanding on the part of litigants might arise in connection with it. It was assumed that the amendment aimed at a modification of the application of the provisions of section 35, to the extent of exempting from the penalty insufficiently stamped documents of the class referred to in clause 6A. It was in that light that we considered the amendment, but we are advised that the wording proposed by the Kumar Sahib would not be satisfactory, inasmuch as it would make it obligatory on all courts to admit such counterparts, duplicates or copies on the payment of the extra duty, without giving any option in the matter of penalty. The position now is that on the principal instrument a penalty has to be realised under section 35, and as I have said it is presumably this obligation to impose a penalty that the Kumar Sahib wishes to avoid in the case of counterparts, duplicates and copies. I think there is something to be said in favour of this, and although Government are not prepared to accept the wording that is proposed by the Kumar Sahib, because it would make it impossible ever to impose a penalty in such cases, they are prepared to accept a different wording which will meet his point and will avoid the objection we feel in the matter. The suggestion I make for the consideration of the House is that the clause as worded should stand, and thereafter should be added the following words:—

"Provided that a Court before which any such instrument, counterpart, duplicate or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence."

That meets substantially the difficulty the Kumar Sahib has in mind, and I hope that in view of what I have said he will accept it.

Kumar SHIB SHEKHARESWAR RAY: I think I must accept the amendment suggested by Mr. Spry, as I have no hope of carrying my amendment as it stands.

The amended motion was then put and agreed to.

The DEPUTY-PRESIDENT (Babu Surendra Nath Ray): The question is that clause 5B, as amended, stand part of the Bill.

The motion was then put and agreed to.

Clause 6.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 6 stand part of the Bill.

Kumar SHIB SHEKHARESWAR RAY: I move that to clause 6 the following shall be added, namely,—

> 'Provided that if an instrument falls within the provisions of clause (*bb*) of the first proviso of section 3 only by reason of its relation to property situated in Bengal combined with its receipt in Bengal, and if such instrument relates also to property situated outside Bengal, the duty chargeable under the Bengal Stamp (Amendment) Act, 1922, on such instrument shall be charged only with reference to the portion of the said property which is situated in Bengal.'

My amendment is intended to clear up what seems to me to be an obscurity in the proposed clause (*bb*) of the first proviso to section 3 of the Stamp Act. The wordings have struck me as somewhat vague and I have failed to understand their import. Take for instance that a man has some property both in and outside Bengal and that an instrument embracing the whole property is executed outside Bengal and subsequently there is an occasion to make use of the instrument in Bengal, now does this clause in the proviso mean that excess stamp duty is to be paid on the valuation of the entire property or only on that part of the property which happens to be in Bengal? Sir, I have consulted several of my lawyer-friends on this point but they seem to differ. Some say that excess duty must be paid on the valuation of the entire property while others hold that it is to be paid only on the value of that part of the property which is in Bengal. Sir, in vain I looked up the law digests for elucidation of this point under the present Act in case of properties outside British India. On enquiry, however, I have come to learn that the present practice in Bengal is to exclude the properties outside British India. But, Sir, I am told that these cases are very rare because in most of the Indian States the Indian Stamp Act is followed. Then again, in most cases of properties partly in India and partly in England, separate instruments are generally executed. So there have not been many cases of this type to give a definite character to the practice followed so long. In fact there is a decision of the Madras Revenue Board, which is quite contrary to the practice followed in Bengal. In this case a part of the property was in Madras and the remainder was in Mysore, an Indian State with a somewhat different Stamp Act. The matter arose out of a settlement deed executed in

Mysore. The Revenue Board decided that the stamp duty was to be paid on the entire property.

Sir, the paucity of precedents in this matter clearly shows that almost the whole of India being governed by one Act such cases were very rare in the past. But now we are going to have very dissimilar laws and rates in the different provinces and such conflict of laws will now be more frequent. Therefore, Sir, I think that it is time to have a settled and clear law on the point and not leave the matter to be interpreted differently by different Courts.

By my amendment, Sir, I ask the House to give legal sanction to what has been the practice in Bengal. I need hardly point out to the House that it would be extremely unfair to charge excess stamp duty on an instrument which has been executed outside Bengal for a property which is also outside Bengal, simply because in some connection or other the document has to be produced in a Court in Bengal. Sir, I hope I shall win here active support of the commercial members of the Council. There are tea gardens in Assam and mines in Bihar, whose head offices are in Calcutta. If they execute any conveyances or other instruments in those provinces even in respect of properties situated in those provinces but for some reason or other they have to sue or are sued in Calcutta necessitating production of those instruments, then under the proposed law such instruments shall be liable to be charged for stamps at the enhanced rate current in Bengal. This is really inequitable in the extreme. I therefore, move, Sir, that in case of instruments executed outside Bengal, such properties as are not in Bengal should be exempted from being charged at the enhanced rate prevailing in Bengal.

Mr. H. E. SPRY: It is a great pleasure to be able to associate oneself with the Kumar Sahib, and on this second amendment of his to be able to say that Government are in full agreement with the principle underlying it. The position is a very simple one. It is this. A document is executed out of Bengal but refers to property situated in Bengal and is received in Bengal. Under the Bill, which is now before the House, it has to pay an increased stamp duty. The question is whether such a document, assuming that it refers to properties situated partly in Bengal and partly outside Bengal, should pay the duty on the value of the whole property or only in respect of the value of the properties situated within the province. Now, Sir, a similar question arises in regard to documents which are executed out of British India and are brought into British India, and although the Kumar Sahib seems to think that we have had very little experience of these documents up to date, I can assure him that so far as Calcutta is concerned, we have had a wide experience of those documents, and I have ascertained that it has been the practice in the Calcutta Collectorate so long as anyone can remember, and certainly during the last 20 years, to charge duty only on that portion of the property that is situated in British India. I am advised

that the interpretation of this Bill will be that documents executed out of Bengal and received in Bengal will be valued for stamp duty exactly on the same principle, that is, on the basis of the value of the property situated in this province to which such documents relate. Therefore, as I said at the beginning, the Kumar Sahib and ourselves are in entire agreement. The only point on which I think we differ is whether the amendment should stand part of the Bill or not, and I submit to the House, and suggest to the Kumar Sahib, that for the reason, I will now explain very briefly, it is desirable that it should not find a place in the Bill. The reason is this. The present Stamp Act has been in force for years, and the interpretation of its provisions in Bengal, notwithstanding anything that may have taken place in Madras, in respect of documents executed out of British India, has been to charge stamp duty only on the value of the property situated in British India, and this same principle, based on the general interpretation of the law, will be applied to documents executed hereafter out of Bengal. There is no provision in the Stamp Act at present in regard to documents executed out of British India and received in British India of the type the Kumar Sahib suggests, and if this clause is inserted in regard to documents executed out of Bengal and received in Bengal, I apprehend that the courts will assume that it is intended to apply to documents, executed out of Bengal and received in Bengal, in the matter of the duty to be levied, a different interpretation of the law from that now applied to documents executed out of British India and received in British India. Therefore, the position is that the principle which the Kumar Sahib desires us to apply to these documents is the one which it is intended to apply, and which has been in force, as I have ascertained, for the last 20 years at least, in respect of documents executed outside British India.

I hope that in view of the explanation I have given, and the assurance that it is intended that stamp duty shall be levied on the value of the property situated in Bengal, the Kumar Sahib will withdraw his amendment.

Kumar SHIB SHEKHARESWAR RAY: In view of the explanation given by Mr. Spry, I think I should withdraw my amendment, though I am not convinced by his arguments.

The motion was then, by leave of the Council, withdrawn.

The DEPUTY-PRESIDENT: The question is that clause 6 stand part of the Bill.

The motion was put and agreed to.

Clause 7.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 7 stand part of the Bill.

The motion was put and agreed to.

Clause 8.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 8 stand part of the Bill.

The Hon'ble Mr. J. H. KERR: I move that in clause 8, line 1, after the words and figures in section 32, the words 'of the said Act' be inserted.

The motion was then put and agreed to.

The Hon'ble Mr. J. H. KERR: I move that in clause 8(*3*), in proposed new clause (*d*), for the words 'three months of the date' the words 'three months from the date' be substituted.

The motion was put and agreed to.

The DEPUTY-PRESIDENT: The question is that clause 8 as amended stand part of the Bill.

The motion was put and agreed to.

Clause 8A.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 8A stand part of the Bill.

Kumar SHIB SHEKHARESWAR RAY: I beg leave of the House to withdraw the amendment standing in my name.

The following amendment was, by leave of the Council, withdrawn :—

"That clause 8A be omitted."

The Hon'ble Mr. J. H. KERR: I move that in clause 8A, line 1, after the words and figures 'After section 48' the words 'of the said Act' be inserted.

The motion was put and agreed to.

The DEPUTY-PRESIDENT: The question is that clause 8A, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 8B.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 8B stand part of the Bill.

The Hon'ble Mr. J. H. KERR: I move that in clause 8B, lines 1 and 2, after the words and figures, of section 77 the words 'of the said Act' be inserted.

The motion was put and agreed to.

The DEPUTY-PRESIDENT: The question is that clause 8B as amended stand part of the Bill.

The motion was put and agreed to.

Article 2.

The DEPUTY-PRESIDENT: The question I now have to put is that Article 2 stand part of the Bill.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in Schedule 1A, Article 2, for the words ' ten rupees ' in the second column the words ' seven rupees eight annas ' be substituted.

Referring to the present Act it would appear that the sum, which is provided in the clause, is Rs. 5 as a fixed sum. In the present Bill the amount is raised to Rs. 10. I submit that Rs. 10 be reduced to Rs. 7-8. If we refer to article 57, the Council will note that regarding (*b*) ' in any other case ' Rs. 7-8-0 is provided. So that in dealing with administration bonds we find Rs. 10 provided and dealing with security bonds Rs. 7-8-0 provided I think, although we may draw a distinction between security bonds and administration bonds, it is necessary to note that the amount which has been raised is double the amount, *viz.*, Rs. 5 have been raised to Rs. 10. As this will operate as a hardship upon those who are required to pay, my humble submission to the Council is that a moderate amount Rs. 7-8-0 be fixed.

The Hon'ble Mr. J. H. KERR: This amendment is typical of a great many of the amendments which appear on the agenda paper, and although this particular amendment is of no great importance in itself, it may perhaps help to shorten our discussion, if I suggest to the Council some general principles which we might adopt in dealing with proposals of this character. As the Council know, this Bill was framed on the advice of an Expert Committee which was asked to consider the question of the enhancement of stamp duties from the point of view of the probable effect on trade and on dealings in property. We asked the Committee to advise whether it was possible without causing undue hardship to the public or undue restraint on trade to raise the annual stamp revenue by approximately 50 per cent. The Committee's report which has been placed in the hands of the members of this Council shows that they thought that in the great majority of cases, it would be possible to impose a 50 per cent. enhancement. There were, however, some cases, such as bonds, in which the Committee thought that an all-round enhancement of 50 per cent. would be excessive. In the case of bonds they proposed that there should be no enhancement up to the value of Rs. 100, that the enhancement between Rs. 100 and Rs. 500 should be limited to 25 per cent. and that 50 per cent. should be taken only on documents in excess of the value of Rs. 500. To counteract the deficiency which this concession would otherwise have caused, they proposed to raise the duty on

certain other documents by more than 50 per cent. This particular administration bond, which we are now considering, is one of these documents. The Committee estimated that their proposals would bring in an all-round increase of revenue of about 46 per cent. or 4 per cent. less than we had hoped to get. We framed the Bill on the basis of the Committee's proposals and sent it up to the Government of India for scrutiny, their sanction being necessary under the Government of India Act to this legislation being undertaken in the local Council. The Government of India excluded certain items from our original Bill because they thought that if there was going to be any legislation about these documents at all, it should be undertaken in the Imperial Council, so that the rates might be uniform for the whole of India. They have told us that they are considering the question of legislation for such documents, but as far as I can ascertain no such legislation has yet been introduced, and it will be some months before anything is done by the Government of India. The action of the Government of India has of course had the effect of reducing our receipts under this Bill still further, and in the Select Committee we made further concessions. The net result is that under the Bill, as it stands, we expect to get an enhancement of only a little over 40 per cent. instead of the enhancement of 50 per cent. with which we started. I need hardly remind the Council that if further reductions are now made in consequence of these amendments that we are now considering our surplus of Rs. 20,00,000 will dwindle away, and there is a serious risk that it may disappear altogether. So in dealing with these amendments regarding individual articles I would suggest that we should keep our eye on that surplus and refrain from making any reductions in the Select Committee's proposals unless very good reasons are shown that their rates will press hardly on any class of the community or will interfere with trade and dealings in property.

Now this amendment proposes that in the case of administration bonds, where the amount exceeds Rs. 1,000, the duty should be Rs. 7-8-0 instead of Rs. 10 as proposed in our Bill. It is true, as Rai Mahendra Chandra Mitra Bahadur points out, that the existing duty is only Rs. 5. But we have here one of these cases in which our Expert Committee proposed a larger enhancement than 50 per cent. in order to counteract the deficiency arising from the concessions they made under other heads. We have here the further justification that where the amount does not exceed Rs. 1,000, the duty is to be the same as a bond, and if the Council will refer to Article 15 they will see that we propose a sliding scale for bonds which reaches Rs. 7-8-0 in the case of bonds between Rs. 900 and Rs. 1,000 in value. It is reasonable, I think, that in the case of bonds which exceed Rs. 1,000 we should take more than in the case of bonds of Rs. 900 in value. But I base my opposition to the amendment on the broad ground that a man executing an administration bond for an amount exceeding Rs. 1,000 can for all practical purposes pay Rs. 10 just as

easily as Rs. 7-8-0. The difference of Rs. 2-8-0 taken in conjunction with the other expenses involved is insignificant to the executor of the bond, but if we go on making small reductions of this character all the way through, they will in the aggregate total up to a very considerable loss on the amount which we should otherwise gain on this Bill. I am inclined to suggest to the Council that these matters of detail, having been fully considered by the Expert Committee and also by the Select Committee, it is really unnecessary for this Council to go into them in very great detail. As far as I know in no Legislative body in western countries would details of this kind be discussed by the full House. The full House would accept the decisions of committees on matters of this kind. There are of course matters of principle such as that which we discussed yesterday which can very properly be considered by the Council as a whole. But I would suggest that efforts might be made to save time by omitting some of these detailed amendments or at any rate confining our discussion within as brief limits as possible, in the case of these amendments. I suggest that we ought not to reduce the rate recommended by the Select Committee, and I think the Council will be well advised to reject his particular amendment.

The motion was then put and lost

The DEPUTY-PRESIDENT: The question is that Article 2 stand part of the Bill.

The motion was put and agreed to.

The DEPUTY-PRESIDENT: The question I now have to put is that Article 3 stand part of the Bill.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in Schedule 1A, Article 3, for the words ' Twenty rupees ' in the second column, the words 'Fifteen rupees, ' be substituted.

As I said on the last occasion that the Council will have to consider whether the amount fixed at Rs. 20 is a reasonable one. My suggestion is for a reduction. The Hon'ble Mr. Kerr has told the Council that the whole matter has been settled by the Expert Committee and therefore much discussion on the subject is not necessary. I respectfully differ from him. If the matter comes to the Legislative Council it is necessary for each member to consider the reasonableness of the proposals advanced by the Expert Committee or else what is the necessity of their sanction. Now if we have to increase the revenue, then it is hardly necessary for a discussion in the Council whether any particular document or instrument will bear proper stamp or not. My humble suggestion to the Council is that it should consider carefully whether it will discuss the merits or we will take what the Expert Committee have advised Government. My view is quite different. We should go particularly into each item and then come to the conclusion whether the Select Committee was right in the views expressed in

their report or not. Now coming to this particular amount I find it is a very large one. If the tax-payer is required to pay this stamp duty it must be a reasonable one—reasonable as suggested by the Council and not by the Expert Committee or by Government. In view of this matter I press for the consideration of the Council whether it would be fair, reasonable and just to demand Rs. 20 instead of Rs. 15. It is necessary for the tax-payers to criticise every item of the Bill and to consider whether they are in a position to pay the amount which is asked for. That is the view which I would ask the Council to take in the matter.

Rai JOGENDRA CHUNDER GHOSE Bahadur: As regards this matter it requires some consideration. Sir, the permission to adopt should not be charged with any duty. It is a religious Act under the Hindu law, therefore, the permission to adopt is very often given by a person at his death-bed when no stamps are available. I say this will work very harshly on Hindus. There are two branches of this question. Regarding an adoption actually made, it may be charged with Rs. 20 or even Rs. 100—I do not mind. One branch, that is, "any instrument (other than a will) recording adoption "—for this branch Rs. 20 is, I think, too low. But the other branch, *viz.*, " conferring or purporting to confer an authority to adopt," I humbly submit that that ought not to be charged with any duty at all. Even if it is to be charged with any duty I think Rs. 15 is too high. I therefore beg the Hon'ble the Finance Member to consider this matter.

Rai RADHA CHARAN PAL Bahadur: I wish to say a few words on this amendment. The Hon'ble Mr. Kerr has stated that a special committee was appointed to consider this Schedule and according to their recommendations the Schedule has been prepared. Therefore, it is not proper as far as I have gathered from his observations that the House should go into the detail, but should swallow it wholesale and that is the practice in his own land, the Mother of Parliaments. I do not know, Sir, whether in his own country a committee is appointed to frame legislative measures without the knowledge of Parliament or without its sanction or without any representative from that body. I think, Sir, if that is so the members of Parliament as far as I have been able to gather from the proceedings which I read, as published in the newspapers, they also exercise the right to consider the recommendations of committees and they have done so in many cases, specially in reference to financial affairs. Therefore, the dictum which the Hon'ble the Finance Member lays down because the committee was appointed behind our back and has made certain recommendations we should not consider them seems to me to be rather strange. Now as regards the amendment, I desire to say that adoption is a custom enjoined by our religion. In order to secure the salvation of a man who dies leaving behind a widow, would you like to adopt the principle of charging that man who died penniless with this heavy duty? Surely I think that it is not the

intention of Government to enhance the tax which will undoubtedly affect the poor and will certainly go far to interfere with the religious rights of the people.

Mr. D. C. GHOSE: I desire to say a word or two on this amendment. I oppose this amendment. I am somewhat surprised at the remarks made by Rai Radha Charan Pal Bahadur. He has taken exception to the observations of Mr. Kerr. The Hon'ble Finance Member has rightly said that this Council ought not to go into the details of the report of the Select Committee. May I ask, what is the good of appointing a Select Committee if the Council is going to consider every little detail? I should like to ask Rai Radha Charan Pal Bahadur what happens in the Corporation? There we have a number of standing committees and when the proceedings of those committees come before the Corporation, the Corporation generally does not go into every detail.

Rai RADHA CHARAN PAL Bahadur: They certainly do.

Mr. D. C. GHOSE: The whole idea of appointing Select Committees is that the committees will go into details and the Council will consider only the principles underlying them.

Rai RADHA CHARAN PAL Bahadur: May I rise to a point of explanation, Sir? I say that in the Corporation they do refuse recommendations of committees.

Mr. D. C. GHOSE: Is that a personal explanation, Sir?

The DEPUTY-PRESIDENT: Better take your seat.

Babu AMULYA DHONE ADDY: I oppose the amendment but at the same time I must say that I am really aggrieved to hear from Mr. D. C. Ghose that this Council should not go into the question of details inasmuch as he says that these have been dealt with by the Select Committee. As a member of the Select Committee I may be allowed to say that we have not gone through the details as we ought to have done and some of the members of the Select Committee could not make it convenient to attend the meeting of the Committee. I may be allowed to say that my esteemed friend Babu Surendra Nath Mallik could not attend the meetings of the Committee except the last one when we took into consideration the draft report of the Committee. Mr. Abdur Raheem also was absent except at the last meeting. Again, Sir, the President of the Bengal Chamber of Commerce could not attend the second meeting of the Committee when his presence was urgently required.

The Hon'ble Mr. J. H. KERR: May I rise to a point of order, Sir? Is the hon'ble member entitled to refer to the proceedings of the Select Committee?

The DEPUTY-PRESIDENT: I do not think you are entitled to make personal remarks of that character or to refer to what happened in the Select Committee.

Babu AMULYA DHONE ADDY: I am sorry. Reference has also been made to the proceedings of the Calcutta Corporation. I admit that the members of the Calcutta Corporation do not generally go through the details of resolutions passed by standing committees unless there are special reasons to the contrary. I may be allowed to state that all the proceedings of the standing committees are printed and circulated amongst the members of the Corporation while in the case of the select committees of this Council they are not.

Mr. H. E. SPRY: I think it is a matter of regret that certain members of the House have misunderstood the remarks of the Hon'ble Mr. Kerr (at least a part of them) in regard to the previous amendment. I should have thought the members of this Council were aware that there is no one who is more ready to hear the opinions of the members, to listen to their views and to consider their arguments than the Hon'ble Mr. Kerr, and I very much doubt if any instance can be pointed to when Mr. Kerr has not been anxious to listen to members with patience and consideration. If Rai Radha Charan Pal Bahadur thinks that it is desired to impose any limit on the privileges of this Council, or that his views are not wanted or that he or any other member is not to be allowed to speak as long as he likes on any of the amendments, he has made a great mistake. The position simply is this. This is the first of the three taxation Bills that are supposed to come into law on the 1st April, 1922; to-day we are at the 9th of March; the debate on demands for grants is bound to begin on the 18th, and if these Bills are to go through within a reasonable time there must be a certain amount of expedition. The Hon'ble Mr. Kerr intended to convey that so far as this Bill is concerned, the Council have the advantage of the advice of two committees—the Expert Committee and the Select Committee, and in order that we may proceed expeditiously it is perhaps not necessary to discuss in any great detail all the small points that can be urged in regard to this Bill. If, however, members of this Council take another view and wish to discuss the small details of this Bill at great length it is of course open to them to do so. But I imagine that most members will wish to direct their attention to the important points only.

As regards the remarks made relative to the Expert Committee, may I inform Rai Radha Charan Pal Bahadur that the Geddes Committee, for which I understand he entertains feelings of respect and affection, was appointed by the Cabinet without reference to Parliament? As a matter of practice a large number of committees are appointed in England and in most western countries without reference to the legislature, and therefore I do not think the Expert Committee need be looked

at enhance because this House was not consulted as to its composition and appointment.

As to the amendment that is before us, in the first place, I submit that adoption is not necessarily a purely religious function, and certainly it is not always so. I submit, in the second place, that if a person wants to adopt, no document is necessary. And, in the third place, the commonest way of conferring the power of adoption is in a will which requires no stamp duty. Therefore the contention that the increase of stamp duty is going to handicap the performance of the religious duty of adoption is an exaggeration.

Rai Mahendra Chandra Mitra Bahadur has said that this House should deal with the matter in a reasonable way, and must be satisfied that the amount of the increased duty proposed is not oppressive. I accept the propriety of the argument, and I submit that when a person is going to adopt— and we know fairly well the class of person who does adopt— the question of poverty or oppressiveness is without any relevancy.

I think Rai Jogendra Chunder Ghose Bahadur said that Rs. 10, Rs. 20, Rs. 30 or even Rs. 50 would not be an excessive duty for a deed of adoption, but he argues that no duty should be charged on a document conferring the power to adopt. I do not think it is possible to differentiate between the act of adoption and the granting of the power of adoption. In the eyes of the law, so far as the stamp duty is concerned, they have been on the same footing for many years past. Rupees 10 has been the duty on each class of document and I see no reason why, at this stage, we should differentiate between them. The point I wish to impress upon the House is that when the proprietress of a large estate is going to adopt, the question of Rs. 10, Rs. 20, or for the matter of that Rs. 100, does not arise. When this Bill was considered in draft it was thought that this was one of the articles on which an increased duty in excess of 50 per cent. might appropriately be imposed without inflicting hardship on any person, and I submit that no argument has been adduced that refutes this view. I, therefore, oppose the amendment on behalf of Government.

Mr. TARIT BHUSAN ROY: I had no mind to intervene in this debate but I think, as has been rightly pointed out by Mr. Spry, there has been a misapprehension in regard to this matter. Adoption may be effected in three ways, by will, orally as well as by instrument.

Now with regard to authority given orally or by will no stamp duty is required. So far as the Bill is concerned, as has been pointed out by Mr. Spry and rightly, every one will admit that a will requires no stamp duty. That being so I see no reason why the Bill will affect the interest of the poor. It is very seldom if ever that a very poor person will make a will or make an adoption by virtue of an instrument. During my experience of the last 20 years as a solicitor I have come across only one

instance in which adoption has been made by an instrument. So I oppose this amendment.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that Article 3 stand part of the Bill.

The motion was put and agreed to.

Article 4.

The DEPUTY-PRESIDENT: The question I now have to put is that Article 4 stand part of the Bill.

Babu BHISHMADEV DAS: I move that Schedule 1A, article 4, be omitted.

In case of affidavits the present duty is more than sufficient. Affidavits are sworn and filed even in cases of small value and sometimes in rent suits more than one affidavit is filed. So that the cost of affidavits may exceed the value of the suit and the poor tenants are saddled with it. It would have been better if the duty could be decreased in suits valued up to Rs. 100.

The hardship is greater in cases against minor defendants in which an affidavit must be sworn for the appointment of guardians though the value of the suit may be Rs. 5 or less than that. So I strongly oppose the increase of duty on affidavits and move that the article be omitted. I do not understand why affidavit is included in the Schedule of the Stamp Act and not in the Court-fees Act.

Maulvi YAKUINUDDIN AHMED: With regard to affidavits the stamp duty is levied by court-fees and not by stamps, and we know this from experience. Whenever any affidavit is sworn to be used before a court, it is written on demy paper and a court-fee of Re. 1 is affixed to it. But in the old Act, as well as in the new Bill, provision is made of a non-judicial stamp. We are not concerned much with it but with the amount which has been doubled. I beg to submit that it will tell very hard upon the poor. In all rent suits, whenever there is a minor defendant, the zamindar or the plaintiff has to swear an affidavit that the minor defendant has a guardian whose interest is not adverse to that of the minor; if the duty on affidavit is doubled from Re. 1 to Re. 2, it will tell hard on the minors as they are in many cases the defendants. Although, at the time of the institution of a suit, the zamindar or the plaintiff pays the cost of the suit, it is decreed against the minor. If this is so, the whole burden of doubling the amount will fall upon the defendant who is poor and no matter whether the claim is for Re. 1 or Rs. 2 there must be an affidavit sworn and Rs. 2 as stamp duty must be paid. That being so, the claim itself is doubled from Re. 1 to Rs. 2 or from Rs. 2 to 4. This is a great hardship and should be taken into

consideration by the Council. I hope and trust that having regard to the circumstances disclosed and that there are thousands of rent suits in every mufassal court in which minors are defendants, I think the increased stamp duty will tell very hard uponthe poor raiyats of the land.

Then there are two other provisions that have been put in the Bill. It stands to reason that the amount should not be doubled. One is affidavit or declaration in writing when made as a condition of enlistment under the Indian Army Act, 1911. With regard to the other affidavit whenever there is a contentious matter, affidavits are sworn before a Civil Court in the mufassal for which Re. 1 is charged; thus certainly it will be a great hardship on the poor if the amount is doubled.

The Hon'ble Mr. J. H. KERR: May I point out to the member that under the exemption clause an affidavit filed before any court is exempted from duty altogether?

Maulvi YAKUINUDDIN AHMED: I do not know whether the Hon'ble Member exempts affidavits used before court altogether.

The Hon'ble Mr. J. H. KERR: Yes, under this Act, it is exempted altogether.

Maulvi YAKUINUDDIN AHMED: Under what category will the affidavits that are sworn for the immediate purpose of being filed or used in court come? If these affidavits are exempted altogether I have no objection, but as a rule they are not. We know that a court stamp of Re. 1 is fixed as there is no such provision under the Court-fees Act. I have looked to the provisions of the Court-fees Act and that is the reason why I bring it to the notice of the Council. If, as the Hon'ble Finance Member says, it is exempted altogether, then even this Re. 1 court-fee is not necessary. It should be altogether exempted.

The Hon'ble Mr. J. H. KERR: It is liable to court-fees in the ordinary way. But it is altogether exempted from stamp duty under this Act.

Maulvi YAKUINUDDIN AHMED: But such stamp duties are not levied, but court-fees are prescribed without provision in the Court-fees Act.

Maulvi HAMID-UD-DIN KHAN: The first point for consideration is whether stamp duty in the shape of court-fees is to be paid in mufassal courts in cases where minors are concerned. The prevalent practice in the mufassal is that in rent suits the plaintiff has to affix a stamp in shape of court-fee of Re. 1 on affidavit saying that such and such persons are minors and such person is a guardian of the minor and has no adverse interest against the minors. But in cases where summons are issued, for the affidavit that is sworn in, no stamp duty is paid. So an affidavit is not exempted from court-fee of Re. 1. The next point is that the stamp duty on affidavits should not be increased for it will operate

ultimately very hard upon the poor. When a suit either for rent or money is brought against a minor, an affidavit is to be sworn in by the plaintiff with a court-fee of Re. 1 and when the suit is decreed the minor debtor will have to pay for it as cost of the suit. So I say that if the stamp duty is increased from Re. 1 to Rs. 2 it will go very hard against the poor tenants, cultivators and judgment-debtors. This increase of duty on affidavits is not an increase of 25 or 50 per cent., but I am sorry to say it is 100 per cent. It is a jump from Re. 1 to Rs. 2—a very big jump which will ultimately tell hard on the poor. So the proposed increase does not seem to me to be a sound one. Yesterday, we heard Ministers and Members of the Council advocate the cause of the poor in loud voices. Where are they to-day? If they have any sympathy for these poor people, let them come forward and rescue the poor from the imposition of an additional tax on affidavits which like the last straw will break their backs.

MINISTER in charge of DEPARTMENT of EDUCATION (the Hon'ble Mr. P. C. Mitter): I think this amendment has been put in under a misapprehension and the debate shows that I am right. I may point out to the House that under clause 4 of Schedule 1, the affidavits which we are now dealing with are non-judicial affidavits, and affidavits including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing; and one of the exemption clauses clause (*b*), says that affidavits for the immediate purpose of being filed or used in any court or before the officer of any court is exempted. Therefore affidavits under the Stamp Act do not belong to the class of affidavits which my friend Maulvi Yakuinuddin Ahmed and others have in mind. The affidavits referred to here are practically used only in Calcutta, for the purpose of proving deaths in connection with life policies and for proving the dates of births in this and other countries and for other similar purposes. Fees on affidavit, which are levied under the Stamp Act are not used in courts either in the mufassal or in Calcutta. Babu Bhishmadev Das has inquired about the absence of any provision in the Court-fees Act for charging fees on affidavits. I believe he is right. I may explain that there is no statutory basis for charging any fees for an affidavit. As a matter of practice and of just practice a fee is charged as compensation to the Government for the time taken by its officers in attesting these affidavits. Legally it is perfectly just that a compensation should be paid to Government for utilising the services of its officers although there is no statutory basis.

With the leave of the House, I place a quotation from a well known annotator which summarises the true position:—

It is doubted whether it would be lawful for Government to direct that any particular class of officer administering the oath of a declarant of an affidavit should not certify that he has done so till a Court-fee label of one rupee is attached to the affidavit on account of his signature. Bengal Government Resolution No. 2908, dated

the 12th June, 1871, does not in terms apply to affidavits, but it requires the payment of a fee by way of a charge for certain services rendered by public officers to private individuals over and above any official obligation imposed upon such officers by law. I am not aware of any law which imposes upon any Court or public officer the duty of attesting affidavits. If Government permit their officers to attest such documents, it is, I think, open to Government to require the convenience to the applicants and the loss of the public officers' time to be paid for. Section 197 of the Civil Procedure Code (see now Act V of 1908, section 139) indicates what public functionaries may administer the oath of a declarant in the case of any affidavit under that Code, but it does not require any of the said functionaries, on application to administer the oath to a declarant and attest his affidavit, and there is nothing in its provisions which appears to me to be inconsistent with the requirement of Government that a charge shall be paid for the attestation. The second paragraph of section 196 of the Civil Procedure Code (see now Act V of 1908, first Schedule, O. XIX, Rs. 3), on the other hand, recognises that affidavits cannot be made without cost.—*Report by the Legal Remembrancer, as recorded in Bengal Government Resolution No. 429, dated the 21st January, 1887, Judicial Department.*

This therefore is the basis of the charges made for affidavits which are filed in court, and I think my hon'ble friend who has experience of mufassal litigation (I have some experience of mufassal but more of High Court litigation) knows that in affidavits that are filed in courts judicial court-fee stamps and not non-judicial stamps under the Stamp Act are used. Therefore, there need be no apprehension in the mind of anybody that by raising the duty from Re. 1 to Rs. 2 in the Stamp Act the ordinary litigant—whether in the mufassal or in the High Court or anywhere else—will be affected. The Government are raising the stamp duty from Re. 1 to Rs. 2 because the class of people who use this kind of affidavits is limited and is confined generally to the more or less well-to-do people of this town.

Maulvi YAKUINUDDIN AHMED: Will the Hon'ble Minister enlighten me if such a provision can be made in the Court-fees Act?

The Hon'ble Mr. P. C. MITTER: In the Court-fees Act we propose to raise the rate for petitions from 8 annas to 12 annas. The hon'ble member will have an opportunity to debate this point when the Court-fees Bill is discussed, but I am afraid the present amendments are the outcome of misapprehension. Judicial stamp duty is never levied on affidavits used in courts as the section itself makes it quite clear that affidavits made for the immediate purpose of being filed or used in any court, or before the officer of any court, are exempt. I hope that after this explanation, the hon'ble members who moved their amendments will see that it is not necessary to press them here.

Maulvi HAMID-UD-DIN KHAN: Is there any provision in the old Court-fees Act as to the amount to be paid?

The Hon'ble Mr. P. C. MITTER: As I have just explained there is no provision either in the old Court-fees Act or in the Amended Court-fees Bill for levying any judicial court-fees for filing an affidavit in Court. There is provision for the levy of court-fees on petitions, but the

Civil Procedure Code lays down that certain petitions are to be attested by affidavits. The resolution referred to in the above quotation says that if the time of any officer of a court of law is taken up, the officer is entitled, on behalf of Government, to charge a reasonable fee.

Maulvi YAKUINUDDDIN AHMED: May I have an assurance that provision would be made in the Court-fees Act that Re. 1 court-fee would be used for affidavits?

The Hon'ble Mr. P. C. MITTER: I cannot give any assurance, for the matter may be discussed when the Court-fees Bill is considered in the Council. Nobody need have any apprehension because there is no statutory basis for the levy of court-fees on judicial affidavits.

Maulvi YAKUINUDDIN AHMED: Will such provision be made in the Court-fees Bill?

The Hon'ble Mr. P. C. MITTER: As I have explained there is no provision either in the present Act or in the Amended Court-fees Bill about the levy of court-fees to be used in courts, but court-fees are levied under the resolution which I have just read from a well-known annotated edition on Law of Court-fees. I can assure the Council that the member will have ample opportunity of discussing the matter adequately when the Court-fees Amendment Bill will come before the House, but, as I have said, it does not form part of the amended Bill, or the old Act.

The DEPUTY-PRESIDENT: Maulvi Hamid-ud-din Khan, do you want to press your amendment?

Maulvi HAMID-UD-DIN KHAN: After the assurance given by the Hon'ble Mr. Mitter, I beg leave to withdraw my amendment.

The motion was then, by leave of the Council, withdrawn.

SHAH SYED EMDADUL HAQ spoke in Bengali. His speech, translated, is as follows:—

I move that in Schedule 1A, article 4, in the second column for the words 'Two rupees' the words "One rupee eight annas' be substituted.

I have listened with great attention to what has fallen from the lips of the movers of motions Nos. 26 and 27 in regard to the interpretation of the word "affidavit." I have however, not based my motion on any such conception. My motion is with reference to the registration of the affidavit document only. It is apparent that there has been an increase of cent. per cent. as fees for registration. I would earnestly move that the increase be made to 50 per cent. as in all other cases.

Babu FANINDRALAL DE: As several amendments, all urging reductions in the proposed rates stand in my name, I wish to make my standpoint clear once for all.

If it is really expedient to increase the revenue of the province, as has been found to be the case, I sincerely believe that under the existing financial adjustments, the stamps are the only promising sources which, if judiciously tapped, can yield a fair amount to relieve the present strain. Two points are however to be kept in mind. The people are generally poor and they are already heavily taxed. It is to be seen that the additional taxes, which the Council is going to impose on their normal activities, specially of the poorer sections, be not so exhorbitant as to paralyse them. Then again, the whole question should be studied as a business proposition, avowedly our principal motive at present. Increased duties do not always yield increased revenue; very often the reverse happens, when the enhancements are prohibitive; instances of such diminished returns are neither rare nor far from us, but there is no good in citing them I therefore wish that the increase in the rates should be moderate so as to ensure a decent additional outturn.

If the above mentioned principles are accepted, not only the amendment in question, but others following also, are but natural deduction. Affidavits are extremely common and are taken recourse to by the rich and the poor alike.

The Hon'ble Mr. P. C. MITTER: The explanation which I offered when dealing with the previous amendment applies with equal force to this amendment as well. Perhaps Shah Syed Emdadul Huq did not appreciate my explanation and I may again repeat, for the benefit of the Council, that this provision does not touch the rural classes at all: it does not touch the litigants in courts at all.

Babu SURENDRA NATH MALLIK: May I rise to a point of order? Will the Hon'ble Mr. Mitter speak in Bengali, so that the mover may understand his speech?

The DEPUTY-PRESIDENT: The language of the Council is English.

The Hon'ble Mr. P. C. MITTER: I repeat nobody need be afraid that this clause has reference to affidavits used in courts in the mufassal or in the High Court. I believe that after the assurance I have already given that the members will have an opportunity of discussing this question when the Court-fees Bill will be taken up, the movers will withdraw their amendments.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that Article 4 stand part of the Bill.

The motion was then put and agreed to.

Article 5.

The DEPUTY-PRESIDENT: The question I now have to put is that article 5 stand part of the Bill.

The motion was put and agreed to.

The DEPUTY-PRESIDENT: There is one thing that I wish to tell the members, and that is that these taxation Bills will be discussed to-morrow and four days next week. If necessary we shall sit till late at night in order to finish this business and we shall have, if necessary, to sit on Saturday also.

Babu SURENDRA NATH MALLIK: Will that sitting be irrespective of quorum?

The DEPUTY-PRESIDENT: I think there will be a quorum.

Article 6.

The DEPUTY-PRESIDENT: The question I now have to put is that article 6 stand part of the Bill.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in Schedule 1A, article 6 (2) (a), for the figures in the second column, opposite sub-clause (i) and (ii) in the first column, the following be substituted, namely,—

Rs.	AS.	P.	Rs.	AS.	P.	Rs.	AS.	P.
0	3	9	0	2	6	0	1	3
0	7	6	0	3	9	0	2	6
0	11	3	0	6	3	0	3	9
0	15	0	0	7	6	0	5	0
1	2	9	0	10	0	0	6	3
1	6	6	0	11	3	0	7	6
1	14	0	0	15	0	0	10	0
2	13	0	1	6	6	0	15	0
5	10	0	2	13	0	1	14	0
8	7	0	4	3	6	2	13	0
11	4	0	5	10	0	3	12	0
16	14	0	8	7	0	5	10	0
22	8	0	11	4	0	7	8	0
28	2	0	14	1	0	9	6	0
33	12	0	16	14	0	11	4	0
11	4	0	5	10	0	3	12	0

I believe the amendment is in the hands of the members. The object of my moving the amendment is that an increment of 25 per cent. of the rate as specified in section 13, clause (*b*) of Schedule 1 of the existing Act, ought to be allowed. If the standard, which I have proposed, commends itself to the Council as a reasonable one, then I submit that an increment of 25 per cent. will amply serve the purpose. If one standard is to be taken into consideration, I think that the standard which the Select Committee has recommended appears to be a high one and it may be a little lower. I think the Council ought to consider whether the suggestion I have made in my amendment is a reasonable one or not. You are raising the taxes and you say that 50 per cent. is an adequate increase. I contended at the very outset that you ought not to raise the tax and if you raise it you ought to proceed in a reasonable way. An increase of 25 per cent. may, I believe, satisfy the people—I mean the tax-payers. Where is the necessity of raising the tax to the highest proportion and of saying that this ought to be the rule? No doubt, the Select Committee has adopted one principle. I venture to differ from it and I respectfully bring to the notice of the Council that that principle, according to my humble view, is not a reasonable one. The argument that Government wants so much money and therefore all rules and regulations, articles and everything, must correspond to that rule, seems to me to be an arbitrary one. I think that the standard ought to be consistent with the present situation, and I therefore hope that the view I have submitted to the Council may be accepted.

The Hon'ble Mr. J. H. KERR: From the Rai Bahadur's speech his object is quite plain. He wants to reduce the enhancements proposed in this Bill to 25 per cent. The effect of that will be to wipe out our surplus of 20 lakhs altogether. As I have already explained several times, we need the surplus. We expect to get Rs. 40 lakhs out of this Bill and Rai Bahadur wants to reduce this same by half.

As to this particular item, I would just call attention very briefly to the fact that the main documents affected are agreements relating to the deposit of title-deeds, or instruments constituting or being evidence of the title to any property whatever (other than a marketable security). There is also a reference in the article to the pawn or pledge of moveable property; but in this country there is no Pawn-brokers' Act, and I understand that the pawning or pledging of movable articles is practically always effected without any documents. This amendment therefore, practically relates only to cases where they are title-deeds. It will not affect the poor at all, and I think we may safely follow the advice we have received and raise the duty by 50 per cent. I therefore oppose the amendment.

Babu AMULYA DHONE ADDY: I beg to support the amendment. It appears that the opinion of the Bengal Landholders' Association, which has just been circulated is that the increase in the rate of stamp

duty should be 25 per cent. instead of 50 per cent. Had this opinion been placed before the Select Committee, I submit the Select Committee would have come to a different conclusion.

The DEPUTY-PRESIDENT: Mr. Addy should not refer to the proceedings of the Select Committee.

Babu AMULYA DHONE ADDY: However, it appears from the report that the Committee are of opinion that a very large section of the womenfolk of Bengal borrow money on the strength of their ornaments. In the villages, it will cause a great hardship if more than 25 per cent. increase is allowed. As a matter of fact, the agricultural classes borrow money by hypothecation of their movable property. Sir, when there is a scarcity and famine rages, these people generally borrow money on the security of their goods. It will therefore be a source of greater hardship if they are forced to pay these increments of stamp duty on these securities, specially in times of scarcity and famine. With these remarks, I beg to support the amendment.

The Hon'ble Mr. P. C. MITTER: I think my friend, Mr. Addy, is labouring under a misapprehension. I believe my friend has great experience of these transactions; but I will ask him—"Where has he seen womenfolk borrowing on documents on pledge of their ornaments?" We all know that they go to the local *mahajan*, put down their articles and get the money. Therefore, that apprehension need not weigh with the Council. As has been explained, it is a provision which will affect mostly the towns-people and the Calcutta people and the mufassal members need not be at all apprehensive that it will affect the poor people in their every-day life. I do not think that I need say anything more. I oppose the amendment.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that article 6 stand part of the Bill.

The motion was put and agreed to.

Article 7.

The DEPUTY-PRESIDENT: The question I now have to put is that article 7 stand part of the Bill

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in Schedule 1A, article 7, for the words 'Twenty-five rupees' in the second column, the words 'Twenty rupees' be substituted.

The original amount fixed was Rs. 15 and it has been raised to Rs. 25. My humble submission to the Council is that there ought to be a reduction and it ought to be Rs. 5. That is, in my humble opinion, a reasonable suggestion.

Rai UPENDRA LAL RAY Bahadur: In the absence of Babu Indu Bhushan Dutta I beg that I may be allowed to move the following amendments:—

That in Schedule 1A, article 7, for the words 'Rupees twenty-five' in the second column, the words 'Rupees twenty-two and annas eight' be substituted.

This refers to the appointment in execution of a power, whether of trustees or of property, movable and immovable, when made by any writing not being a will. The present rate of duty is Rs. 15 and it is proposed to raise it to Rs 25. The suggestion in this amendment is to increase it to Rs. 22-8-0, *i.e.*, an increase of 50 per cent. But the recommendation of the Select Committee is that it should be increased by 66 per cent. I think it will be fair to have all increases up to 50 per cent. and not beyond that. Relying on that principle I beg to move this amendment for acceptance by this Council.

Mr. H. E. SPRY: I am sorry to find that Rai Mahendra Chandra Mitra Bahadur is going back on his own principles. He has said in connection with a previous amendment that a 25 per cent. increase on the present rates of duty would be suitable for this Bill. But he now proposes, apparently in a moment of extravagance, to give us a 33⅓ per cent. increase for he proposes that instead of Rs. 15 at present, the duty under this article should be Rs. 20.

Rai Upendra Lal Ray Bahadur, who has moved amendment No. 35 in place of Babu Indu Bhushan Dutta, is prepared to be more liberal and proposes Rs. 22-8-0 that is, an increase of 50 per cent. All I want to say about this particular article is that the documents covered by it concern only well-to-do people. They are never used by the poorer classes. Therefore, in view of the fact that we want extra revenue and do not want to tax the poorer people, if it can be avoided, it seems only reasonable that we should get additional duty at the expense of those who can afford to pay. We might have put Rs. 22-8-0 or Rs. 22-12-0 as the duty for this article; but it appeared to the Select Committee that Rs. 25 was a fair and reasonable amount as it would fall only on those members of the community who are in a position to pay. I oppose the amendments.

These two motions were then put and lost.

The DEPUTY-PRESIDENT: The question is that article 7 stand part of the Bill.

The motion was then put and agreed to.

Article 8.

The DEPUTY-PRESIDENT: The question I now have to put is that article 8 stand part of the Bill.

Rai UPENDRA LAL RAY Bahadur: In the absence of Babu Indu Bhushan Dutta, with your permission, Sir, I beg to move that in Schedule 1A, article 8(*a*), for the words and figures ' (Bottomry Bond No. 16) ' in the second column, the words and figures ' (Bond No. 15) ' be substituted.

I beg to move this on two grounds. The first is that people have been accustomed to refer to this instrument under the heading of ' Bond.' The other reason is that formerly the stamp duty on Bottomry Bond was the same as in the case of bonds; but in the present Bill an increase of 50 per cent. over the existing rate has been made in the case of Bottomry Bonds. This increase does not seem to be justifiable. On these two grounds I submit that the amendment be accepted.

Rai MAHENDRA CHANDRA MITRA Bahadur: That in Schedule 1A, article 8(*b*), for the words ' Seven rupees eight annas ' in the second column, the words ' Six rupees four annas ' be substituted.

Standing upon the reasonableness of my submission, I beg to notice one fact and that is the nature of the document. The document in question relates to the appraisement or valuation made otherwise than under an order of the court. Now, I submit, Sir, that the stamp duty on such a document ought not to be of a higher value. So, I say that if we look to the descirption of the document, then we can safely take it that the stamp duty ought not to be increased.

Mr. H. E. SPRY: The article covered by this amendment is one which affects commercial interests only. The Council will observe that under the second exemption of this Article an appraisement of crops for the purpose of ascertaining the amount to be given to the landlord as rent is specifically exempted. In fact, this article affects the commercial interests of Calcutta and other large towns. The proposers of these amendments seem to have experienced some difficulty in understanding why Bottomry Bond has been used in this article. As this point has puzzled some members, I may take this opportunity of explaining the position. There is nothing subtle in it. It is provided in certain articles of the Schedule of the Act as it now is that the rate of duty shall be the same as that on a bond. When the committee—I mean the Expert Committee—considered the duty to be levied on bonds they came to the conclusion, as the Hon'ble Mr. Kerr has said, that it would not be proper to increase the rates for ordinary bonds by 50 per cent. throughout. Their proposals, as embodied in the Bill, were that there should be no increase where the value of the bond does not exceed Rs. 100, an increase of 25 per cent. where the value does not exceed Rs. 500, and thereafter an increase of 50 per cent. In the case of other instruments the duty on which is now the same as that on a bond the Committee felt that the full increase of 50 per cent. throughout was justified, and therefore it was necessary in such cases to amend the wording of the Schedule. If the wording had remained " the same duty as a bond "

the resulting duty would have been a smaller increase than 50 per cent. in view of what was proposed in the case of bonds. Therefore it was necessary to find a different wording and it was done by increasing the rates for Bottomry bonds (now the same as for ordinary bonds) by 50 per cent. and by prescribing the duty to be the same as for a Bottomry bond. This automatically gives an increase of 50 per cent. over the present rates.

As regards the merits of the amendments, I do not think it necessary to say very much. Commercial transactions of the kind referred to in this article go on every week in Calcutta and there is no question of the poor raiyats suffering owing to the increase in the rates. I suggest, Sir, that as on the Expert Committee commercial interests were strongly represented by Sir Robert Watson Smyth and others, and as that Committee considered the increased rates reasonable Members may be satisfied that no injustice is being done. I therefore oppose the amendments.

These two motions were then put and lost.

The DEPUTY-PRESIDENT: The question is that article 8 stand part of the Bill.

The motion was then put and agreed to.

Article 9.

The DEPUTY-PRESIDENT: The question I now have to put is that article 9 stand part of the Bill.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in schedule 1A, article 9, for the words, ' Seven rupees eight annas ' in the second column, the words ' Six rupees four annas ' be substituted.

Let us look to the nature of the document here. Originally the fixed amount was Rs. 5, but it has been raised to Rs. 7-8. Here the learner wishes to learn a trade and he wishes to execute an apprenticeship bond in his favour. The Select Committee thought it necessary to raise the amount from Rs. 5 to Rs. 7-8-0. My humble suggestion is " do not raise the amount so much, but raise it to Rs. 6-4-0." I need not make any comments on this. Many of my amendments have not been accepted by the Council, and therefore all that I can do is to place the matter before the Council.

The Hon'ble Mr. J. H. KERR: The Rai Bahadur's object is to reduce the amount by Re. 1-4-0, that is 25 per cent. I understand that apprenticeship is not very frequent. There are a certain number of engineering firms in Calcutta who do take apprentices, I suppose, and these apprentice deeds are executed by them.

We propose to charge Rs. 7-8-0, whereas he has proposed Rs. 6-4-0, the increase is Rs. 1-4-0. I do not think the Rai Bahadur has made out any case for reducing the rate, which commends itself to the House.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that article 9 stand part of the Bill.

The motion was put and agreed to.

Article 10.

The DEPUTY-PRESIDENT: The question I now have to put is that article 10 stand part of the Bill.

Mr. TARIT BHUSAN ROY: I move that in Schedule 1A, for article 10, the following be substituted, namely,—

'10.	Articles of Association of a Company—	
with a capital not exceeding one lakh of rupees	...	Twenty-five rupees.
in any other case	... ...	Fifty rupees.'

I fully know what fate awaits my amendment. I do not like to speak at length upon it. It might be said even by the non-official members perhaps, that I am inspired by a motive to protect the very section of the community who ought to be saddled with taxation. I have a different object in view. I should make it clear at the outset that my object is not to put a burden upon limited Companies which might be started for promoting the development of small industries and it is for this reason that I move that Companies with a capital not exceeding one lakh should be saddled with a duty of Rs. 25 and the Companies with a capital beyond that amount should pay Rs. 50.

With these few words, I beg to place my amendment before the House.

Rai UPENDRA LAL RAY Bahadur: I fully endorse all that has been said by Mr. Tarit Bhusan Roy. It is in the interest of the community especially at the present moment that industries with a limited capital should be encouraged as far as possible by the charge of a small amount of stamp duty. It is on this ground alone that we propose the amendment that companies with a capital not exceeding one lakh should pay a stamp duty of Rs. 25; and in any other case Rs. 50.

With these remarks, I place my amendment before the House.

Rai MAHENDRA CHANDRA MITRA Bahadur: My amendment is for a reduction from Rs. 50 to Rs. 37-8-0 in the case of companies with

a capital of rupees one lakh and under. I think the Hon'ble Mr. Kerr follows the standard from which he will not move one inch. He will say here is the standard which I have taken from gentlemen who are in a better position to advise. If that standard be adopted, I have nothing to say. My submission to the Council is that this standard is a very arbitrary one. It may be based upon the opinion of many gentlemen who are competent to take up this question, but still that opinion ought to be criticised by the members of the Council. If they think that that standard is a correct one, I have nothing to say; it is open to correction.

With these few words, I beg to move that in Schedule IA, article 10, for the words 'Fifty rupees' in the second column, the words 'Thirty-seven rupees eight annas' be substituted.

Rai UPENDRA LAL RAY Bahadur: I confess that I find some difficulty in moving the following amendment which stands in the name of Babu Indu Bhushan Dutta as similar amendment with slight modifications have been moved by Mr. Tarit Bhusan Roy and myself:—

That in Schedule IA, article 10, for all words in the first column before 'Exemption' and the words in the second column the following be substituted, namely:—

'10. Articles of Association of a Company—

(*a*) with a capital of rupees one lakh and under	Twenty-five rupees.
(*b*) in any other case ..	Thirty-seven rupees eight annas.'

With regard to Companies with a capital of rupees one lakh and less the suggestion is the same but in the case of those with a higher capital the scales proposed are different and this amendment contemplates the lower of the two. Rai Mahendra Chandra Mitra Bahadur's amendment is identical with this. If the House agrees to accept any of these amendments, I shall not press for any one in particular as the difference will not be very great. I leave it to this House to make its own choice in the matter.

MEMBER in charge of DEPARTMENT of COMMERCE (the Hon'ble Mr. J. M. Kerr): Amongst my other duties I am in charge of the Commerce Department of the Government of Bengal. It is not very much that a local Government can do for commerce and I should be very sorry indeed to do anything which might be regarded as unjust or likely to hamper commercial development. But I put it to the Council seriously that a company which cannot afford to pay Rs. 50 for its articles of association is not a company which ought to be encouraged. I therefore oppose all these amendments.

The motions were then, by leave of the Council, withdrawn.

The DEPUTY-PRESIDENT: The question is that article 10 stand part of the Bill.

The motion was put and agreed to.

Article 12.

The DEPUTY-PRESIDENT: The question I now have to put is that article 12 stand part of the Bill.

Mr. TARIT BHUSAN ROY: I place my amendment before the House and make the following explanation. As a member of the Select Committee it was my clear duty, with some of my colleagues, to submit a note of dissent on this subject. It will perhaps be said that this is a very unimportant matter, and that it will not in any way affect the poorer classes of the people. I should like to invite the attention of the House to the report of the Select Committee as far as this particular article is concerned.

With regard to article 12 the Committee says—

> This Committee consider that the rate on awards up to Rs. 1,000 should be reduced to the same rate as on a bond in the interests of the poorer classes.

This is common ground. There was absolutely no divergence of opinion in the Select Committee on the point that the poorer classes should not be affected as far as possible.

My submission to this Council is that these awards with an additional duty up to a limit of Rs. 1,000 would seriously hamper the interest of the poorer classes of the community. I will give you concrete instances.

In every village disputes occur regarding household matters which are settled by reference to arbitration. Every day disputes crop up and people prefer arbitration to litigation, particularly in those villages where the court-house is situated at a distance of 20 to 25 miles. Under these circumstances, it is not unnatural for the people to submit their disputes to arbitration, and to have them decided by their awards. I therefore venture to say that any increase up to the limit of Rs. 1,000 would operate as a hardship upon the very class which it is hardly the intention of the Select Committee, to burden. My amendment is that when the amount or value of the property does not exceed Rs. 500, it should bear the same duty as a bond No. 15, and when the amount exceeds Rs. 500 but does not exceed Rs. 600, it should be Rs. 3; where it does exceed Rs. 600 and does not exceed Rs. 700, it should be Rs. 3-8-0, and so on.

In view of the clear recommendation of the Select Committee to the effect that the rate on awards up to Rs. 1,000 should be reduced in the interests of the poorer classes, the proposition which I place before the House is that so far as awards in respect of arbitration up to the value of

Rs. 1,000 are concerned, they should be made chargeable with a same stamp duty as a Bond 15 in the present Act, bearing this fact in mind that under the Bill the duty on a bond has been increased.

With these words, I beg to place my amendment before the House. It must be borne in mind that beyond Rs. 1,000, I do not propose any alteration in the scale. My object is solely to protect the interests of the poorer classes, which it is also the intention of the Select Committee to protect.

With these words, I beg to place the following amendment before the House:—

That in Schedule 1A, for article 12, the following be substituted, namely,—

'12. Award, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition on a reference made otherwise than by an order of the Court in the course of a suit—	
(*a*) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 500 ...	The same duty as Bond (No. 15).
where the amount exceeds Rs. 500, but does not exceed Rs. 600 ...	Three rupees.
where it exceeds Rs. 600, but does not exceed Rs. 700	Three rupees eight annas.
where it exceeds Rs. 700, but does not exceed Rs. 800	Four rupees.
where it exceeds Rs. 800, but does not exceed Rs. 900	Four rupees eight annas.
where it exceeds Rs. 900, but does not exceed Rs. 1,000	Five rupees.
(*b*) if it exceeds Rs. 1,000, but does not exceed Rs. 5,000	Seven rupees eight annas.
and for every additional Rs. 1,000, or part thereof in excess of Rs. 5,000	Eight annas, subject to a maximum of fifty rupees.'

Rai UPENDRA LAL RAY Bahadur: I move that in Schedule 1A, for article 12, the following be substituted, namely:—

'12. Award, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition on a reference made otherwise than by an order of the Court in the course of a suit—	
(*a*) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 500 ...	The same duty as Bond (No. 15).
where the amount exceeds Rs. 500, but does not exceed Rs. 600 ...	Three rupees.
where it exceeds Rs. 600, but does not exceed Rs. 700	Three rupees eight annas.
where it exceeds Rs. 700, but does not exceed Rs. 800	Four rupees.
where it exceeds Rs. 800, but does not exceed Rs. 900 ...	Four rupees eight annas.
where it exceeds Rs. 900, but does not exceed Rs. 1,000	Five rupees.
(*b*) if it exceeds Rs. 1,000, but does not exceed Rs. 5,000 ...	Seven rupees eight annas.
and for every additional Rs. 1,000, or part thereof in excess of Rs. 5,000	Eight annas, subject to a maximum of fifty rupees.'

With the permission of the President I think I may be allowed to move the next amendment also which stands in the name of Babu Indu Bhushan Dutta. Both these are identical. Instead of speaking on them separately, it will save time if I take them both together.

The DEPUTY-PRESIDENT: Very well, you may do so.

Rai UPENDRA LAL RAY Bahadur: I beg, on behalf of Babu Indu Bhushan Dutta, to move that in Schedule 1A, for clause (*a*) of Article

12 and the entry opposite to it in the second column, the following be substituted, namely:—

'(*a*) where the amount of value of the property to which the award relates as set forth in the award does not exceed Rs. 10 ...	Two annas.
where it exceeds Rs. 10 and does not exceed Rs. 50	Four annas.
where it exceeds Rs. 50 and does not exceed Rs. 100	Eight annas.
where it exceeds Rs. 100 and does not exceed Rs. 200	One rupee.
where it exceeds Rs. 200 and does not exceed Rs. 300	One rupee eight annas.
where it exceeds Rs. 300 and does not exceed Rs. 400	Two rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500	Two rupees eight annas.
where it exceeds Rs. 500 and does not exceed Rs. 600	Three rupees.
where it exceeds Rs. 600 and does not exceed Rs. 700	Three rupees eight annas.
where it exceeds Rs. 700 and does not exceed Rs. 800	Four rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900	Four rupees eight annas.
where it exceeds Rs. 900 and does not exceed Rs. 1,000	Five rupees.'

I would like to say a few words in addition to the remarks just made by Mr. Tarit Bhusan Roy.

The original proposal was to fix the same scale as on Bottomry bonds where an all-round increase of 50 per cent. has been recommended by the Select Committee as proposed in the Bill, but at their last meeting the Select Committee agreed to apply to awards up to Rs. 1,000 the same scale as for bonds where, it will appear, and to which I shall refer later on, that there has been no change for amounts up to Rs. 100, and for amounts exceeding Rs. 100, but not exceeding Rs. 500, the increase is 25 per cent. whereas for amounts exceeding Rs. 500 but not exceeding Rs. 1,000, the increase is 50 per cent. This is no doubt some relief to the poorer classes. What we propose is that for amounts up

to Rs. 1,000 the existing scale on bonds, *i.e.*, at the rate of eight annas per hundred rupees should be maintained. As has been remarked by Mr. Tarit Bhushan Roy there is a proposal for increase of 50 per cent. in respect of documents where the value exceeds Rs. 1,000 but does not exceed Rs. 5,000. You will find on a reference to Bond No. 15 that after Rs. 1,000 there is a proposal of Rs. 3-12-0 for every Rs. 500 and we agree to Rs. 7-8-0 where the amount exceeds Rs. 1,000 but does not exceed Rs. 5,000. It will not affect rich people, but in the interest of the poor we consider that the scale as proposed in these amendments, may be accepted by this Council.

The following amendment standing in the name of Babu Surendra Narayan Sinha, was, in the absence of the member, deemed to be withdrawn:—

"That in article 12 of Schedule 1A—

(*i*) for clause (*b*) in the first column and for the entry opposite that clause in the second column thereof, the following be substituted, namely:—

'(*b*) in any other case . . . . seven rupees eight annas;' and

(*ii*) the words and figures 'and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000, in the first column and the entry opposite that clause in the second column' be omitted."

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in Schedule 1A, article 12, lines 10 to 13 in the first column, the words "but does not exceed Rs. 5,000, and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000," be omitted, and for the words "seven rupees eight annas" and "eight annas subject to a maximum of fifty rupees" in the second column, the words "Six rupees four annas" be substituted.

If you look to the scope of the present Act you will notice that certain advantages were given to the tax-payer. We also find in the old Act that there is no such provision as "And for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000," as perhaps it was thought that it would be a burden on the tax-payers. According to my humble opinion you must have an eye on the poor and in that view the whole of clause (*b*) in article 12 should go out. In any case, I do not understand why there should be a tendency to increase this tax at every point. If the object be anyhow to realise this big deficit, that is another matter. I do not know what will be the fate of my amendment, but still I feel it my duty to bring it to the notice of this House, as it is necessary that the members of this Council should consider whether there should be such a provision in the Bill.

Rai JOGENDRA CHUNDER GHOSE Bahadur: Though my friend Babu Tarit Bhusan Roy and myself do not often agree, I must say that this amendment is a very reasonable one. We all know that this country is very litigious; litigation is the curse of Bengal. Government desire that these disputes should be decided by arbitration. We all like to have arbitration courts; Mr. Gandhi wants arbitration courts; everyone here wants arbitration courts. Now, is it right and fair to put difficulties in the way of arbitration? Under the old Act, the maximum arbitration award was Rs. 5; now the Government desire a 50 per cent. increase. What is the increase here? Ten per cent. with a maximum of Rs. 50. Therefore, I say this is against the declared policy of Government; it is against all good principles that the arbitration court awards should be so heavily taxed. I would ask the Government to reconsider the matter and not to alter the old law. How much profit will you get out of it? Not much. Are there many arbitration awards? Not many. Arbitration should by all means be encouraged and not discouraged; therefore I submit that the amendment of Babu Tarit Bhusan Roy should be accepted.

Mr. H. E. SPRY: May I first of all deal with the speech we just listened to by Rai Jogendra Chunder Ghose Bahadur? I suspect, with all respect to him, that he does not understand the position with regard to the maximum rates proposed in this article, or the class of award, the duty on which it is sought to increase. As a matter of fact, the committee that recommended this increase was advised to do so by one of the commercial members on the ground that there are large and important awards and arbitrations effected in Calcutta practically every day and certainly every week, and that awards on important points involving lakhs of rupees are given on instruments with a stamp duty of only Rs. 5. It was suggested to Government that this was unreasonable; the parties are usually wealthy, they avoid the expense of litigation and the heavy costs of law, and pay only Rs. 5 as stamp duty. Government accepted the view that it would be legitimate to increase the amount of duty in these cases. A sliding scale, with a maximum of Rs. 50 has therefore been provided in order that more revenue may be derived from these arbitrations, which are not so uncommon as my friend, the Rai Bahadur, seems to think. This is the object of the increased rate in the higher values.

As regards the lower values Mr. Tarit Bhusan Roy pointed out that in the report of the Select Committee a reference has been made to the relief of the poorer classes. I may say that the Expert Committee, of which I had the honour to be the Chairman, were unaware that these awards affected the poorer classes at all. When it came before the Select Committee the question was raised that there was a possibility that the poorer classes might be affected, and it was proposed to leave the rate unchanged for awards of small value. I put it to Mr. Tarit

Bhusan Roy and to the House that this duty does not, as has been suggested, affect arbitrations in the villages. People who have a dispute about cattle or land or anything else go to an arbitrator; the dispute is settled without a document being written; they do not pay any stamp duty, and one's personal experience is that 90 per cent. of village arbitrations are settled in this way, and never came before the law courts at all. The arbitrator gives his decision and his decision is obeyed. That is all. I say that the duty that is imposed on awards of lower values will not affect the poorer classes, but, on the other hand, the amendment of Mr. Tarit Bhusan Roy and Rai Upendra Lal Ray Bahadur as it is worded is such that the greatest increase will be inflicted on the poorest people.

Mr. TARIT BHUSAN ROY: May I ask a question of Mr. Spry?

Mr. H. E. SPRY: I am not in a position to answer questions now, Sir, and I am in possession of the House.

The amendment of Mr. Tarit Bhusan Roy means that where the amount or value of the property to which the award relates, does not exceed Rs. 500, it should bear the same duty as a bond and the duty on a bond of value between Rs. 400 or Rs. 500 is Rs. 3-2-0. But it will be observed that under this amendment bonds of higher value, that is between Rs. 500 and Rs. 600, will pay a duty of only Rs. 3. That is to say, there will be a smaller duty on an award of Rs. 600 than on an award of Rs. 400. And in fact, if the mover will examine his amendment he will find that it imposes an increased duty the whole of which is on awards of Rs. 100 to Rs. 500. If his anxiety is to relieve the poorer classes, as I am sure is the case, then the mover has made a mistake in the way in which he has framed his amendment. As a matter of fact, as I have said, the poorer classes are not really affected.

As regards amendment No. 45 which stands in the name of Babu Indu Bhushan Dutta, this, for some extraordinary reason which was not explained by Rai Upendra Lal Ray Bahadur, proposes no increase on awards the value of which does not exceed Rs. 1,000. In a measure that is avowedly for the purpose of raising more revenue, the exemption of such instruments from any increase at all seems to require a satisfactory explanation, and none has been given.

My friend, Rai Mahendra Chandra Mitra Bahadur, has propounded his amendment with his usual originality, with perhaps somewhat unfortunate results. He proposes that the duty on awards exceeding Rs. 1,000 should be Rs. 6-4-0; I understand from his amendment that he has no objection to the rates proposed for awards up to Rs. 1,000. If that is the case, his amendment involves the demand of a higher duty on an award of Rs. 800 than on an award exceeding Rs. 1,000.

Mr. Tarit Bhusan Roy's amendment fails, I think, on its merits, because his amendment imposes a burden on the poorest classes.

The second amendment fails because there is no justification whatever for it. As far as my information goes, more than 90 per cent. of the awards which come under this article are commercial awards, made in Calcutta, the duty on which we were advised by the commercial community should be increased.

I oppose these amendments.

The DEPUTY-PRESIDENT: If Mr. Tarit Bhusan Roy wishes to ask any questions of Mr. Spry, he can do so now.

Mr. TARIT BHUSAN ROY: If I have followed Mr. Spry correctly, I believe——

The DEPUTY-PRESIDENT: You cannot make a speech. You can only ask a question.

Mr. TARIT BHUSAN ROY: The question that I wish to ask is with regard to family awards relating to family disputes. It has been said that the parties have merely to refer to arbitration and an award has accordingly to be made. I beg to ask whether in the event of a dispute regarding an award is it or is it not necessary for the parties to go to a court foradjudication?

Mr. H. E. SPRY: I do not think I have followed the question. If Mr. Tarit Bhusan Roy or any other member wants any information that I can give, I shall be very glad to do so outside the Chamber, but this is neither the time nor the proper place to ask such questions.

The amendment standing in the name of Mr. Tarit Bhusan Roy was then put and a division taken with the following result:—

AYES.

Ahmed, Maulvi Rafi Uddin.
Aley, Mr. S. Mahboob.
Bhattacharji, Babu Hem Chandra.
Charmakar, Babu Rasik Chandra.
Chaudhuri, Khan Bahadur Maulvi Hafizar Rahman.
Ghose, Rai Bahadur Jogendra Chunder.
Haq, Shah Syed Emdadul.
Khan, Maulvi Hamid-ud-din.
Mahramali, Munshi.
Maitk, Babu Surendra Nath.
Mitra, Rai Bahadur Mahendra Chandra.
Moitra, Dr. Jatindra Nath.
Nasker, Babu Hem Chandra.
Pahlowan, Maulvi Md. Abdul Jubbar.
Ray, Kumar Shib Shekhareswar.
Ray, Rai Bahadur Upendra Lal.
Roy, Babu Nalini Nath.
Roy, Mr. Bijoy Prasad Singh.
Roy, Mr. Tarit Bhusan.
Sarkar, Babu Jogesh Chandra.
Sarkar, Babu Richindra Nath.
Suhrawardy, Mr. Huseyn Shaheed.

NOES.

Addy, Babu Amulya Dhone.
Afzal, Nawabzada K. M., Khan Bahadur.
Ahmed, Khan Bahadur, Maulvi Emaduddin.
Ahmed, Khan Bahadur, Maulvi Wasimuddin.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, the Hon'ble Sir Surendra Nath.
Bard, Mr. R. N.
Basu, Babu Jatindra Nath.
Bose, Mr. S. M.
Chaudhuri, Maulvi Shah Muhammad.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
Das, Babu Shishumadev.
Das, Mr. S. R.
Das Gupta, Rai Bahadur Nibaran Chandra.
De, Babu Panchanan.

Beare, Lieutenant-Colonel S. H.
Dutt, Rai Bahadur Dr. Haridhan.
Duval, Mr. H. P.
Fitch, Mr. F. D.
Gasse, Mr. D. C.
Goode, Mr. S. W.
Hindley, Lt.-Col. C. D. M.
Hopkyns, Mr. W. S.
Huntingford, Mr. G. T.
James, Mr. R. H. L. Langford.
Kerr, the Hon'ble Mr. J. H.
Khan, Mr. Razaur Rahman.
Lang, Mr. J.
Larmour, Mr. F. A.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble.
Miller, the Hon'ble Mr. P. C.
Nakey, Mirza Muhammad Ali.
Parrett, Mr. P.
Pugh, Colonel A. J.
Rahim, the Hon'ble Sir Abdur.
Roy, Babu Jogendra Nath.
Roy, Maharaja Bahadur Kshamish Chandra.
Roy, Rja Bahadur Lalit Mohan Singh.
Salam, Khan Bahadur Abdus.
Skinner, Mr. H. E.
Spry, Mr. H. E.
Stark, Mr. H. A.
Stephenson, Mr. H. L.
Suhrawardy, Dr. A.
Suhrawardy, Dr. Hassan.
Swan, Mr. J. A. L.
Travers, Mr. W. L.
Walsh, Mr. C. P.
Wordsworth, Mr. W. C.

The Ayes being 22 and the Noes 49, the motion was lost.

The amendment standing in the name of Babu Indu Bhushan Dutta, which was moved by Rai Upendra Lal Ray Bahadur, failed.

The amendment standing in the name of Rai Mahendra Chandra Mitra Bahadur was then put and lost.

The DEPUTY-PRESIDENT: The question is that article 12 stand part of the Bill.

The motion was put and agreed to.

Article 14.

The DEPUTY-PRESIDENT: The question I now have to put is that article 14 stand part of the Bill.

The motion was put and agreed to.

Article 15.

The DEPUTY-PRESIDENT: The question I now have to put is that article 15 stand part of the Bill.

Mr. TARIT BHUSAN ROY: This Council has so far proved to be the grave-yard of all the amendments which have been placed before it excepting the official amendments. It is natural that under these circumstances whatever motive may have prompted me, I should feel some amount of diffidence in bringing it before the House. If any plea is put forward for helping the poorer community, I think it will fall on deaf ears. It is no use, therefore, making any speech. I would merely place my amendment before the House. It runs thus:—

That in Schedule 1A, for article 15, the following be substituted, namely,—

'15. Bond [as defined by section 2(5)], not being a Debenture (No. 27), and not

being otherwise provided for by this Act, or by the Court-fees Act, 1870—

where it exceeds Rs. 100 but does not exceed Rs. 200	One rupee.
where it exceeds Rs. 200 but does not exceed Rs. 300	One rupee eight annas.
where it exceeds Rs. 300 but does not exceed Rs. 400	Two rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500	Two rupees eight annas.

Beyond that I do not propose any change. I fully appreciate the object which has animated the Hon'ble Mr. Kerr in exempting bonds up to Rs. 100 from the operation of the new Bill. It is the same object which has inspired me now to bring forward my amendment before the House. If I may be permited to say so, at the Select Committee in the notes of dissent submitted by us, we pressed that such exemption should be extended up to Rs. 500. The Government have recognised the necessity of making this exemption up to a limit of Rs. 100, but I do say this—is it sufficient to meet the requirements of the situation? Everyone knows that small loans have got to be taken not only by agriculturists, not only by the cultivators of the soil, but also by respectable middle class people. We all know the nature and extent of the indebtedness of our middle class unemployed population in this country. We also know this fact that the duty on bonds has got to be paid by the borrower and not by the person (the person who lends) who lends money to the man in difficulty. The Hon'ble Sir Surendra Nath Banerjea, than whom there is no greater patriot in this country, speaking from the platform of the Indian National Congress, made a powerful appeal on behalf of the poorer classes not only in 1895 but also in 1902. I have read his speeches this morning. I make a similar appeal but in a much feebler voice on behalf of the poorer classes. I wish I could command his eloquence——

Babu SURENDRA NATH MALLIK: That is impossible. (Laughter.)

Mr. TARIT BHUSAN ROY: I wish I could command his earnestness in this matter. This would not mean a large loss of revenue to the Government. Having regard to the fact that Government are animated by a desire to help the poorer classes, I feel that they will realise the necessity of extending the benefits of the exemption up to a limit of Rs. 500. They have done it up to a limit of Rs. 100. Everyone knowe how the agriculturists are in the grip of the usurers. Of course, I must confess that I am myself not a usurer. These agriculturists take loans at a normal rate of 75 per cent. from the usurers and they have got to enter

into these bonds from time to time—twice or thrice every year. The enhancements made in this amending Bill will operate as a great hardship upon these poorer classes. It is for this reason that I appeal to the Government that so far as bonds up to Rs. 500 are concerned, they will make this concession. With these words, I beg to move this amendment.

Rai UPENDRA LAL RAY Bahadur: I would like to explain the Schedule as drawn up by the Select Committee in addition to what has been said by Mr. Tarit Bhusan Roy. We find that all the members were agreed that there should be no change up to the amount of Rs. 100 and we also find that when the amount exceeds Rs. 100 but does not exceed Rs. 500 the change proposed is 25 per cent., and when it exceeds Rs. 500 and does not exceed Rs. 1,000 the change is 50 per cent. Our suggestion in this amendment is that there should be no change up to Rs. 500, *i.e.*, the exemption extended in the case of bonds up to Rs. 100, may be extended up to Rs. 500, and beyond that amount; if you read carefully the rates proposed, you will find that the change suggested is 25 per cent., whereas in the Bill it is 50 per cent. Our suggestion is a modest one and we have taken in view the situation not only of the agriculturists, but of the middle class people. We know it for a fact that many of them have to borrow money to meet their ordinary requirements and even small dealers have to do the same. In the interest of these people, I would suggest that the increase should be 25 per cent. for amounts exceeding Rs. 500 and up to Rs. 1,000.

SHAH SYED EMDADUL HAQ spoke in Bengali and Urdu. His speech, translated, is as follows:—

I move that in Schedule 1A, article 15, in the second column, for the words "One rupee four annas" the words "One rupee" be substituted.

When the Stamp Bill was passed, I opposed it vehemently in order to remove the grievances of the poor, and although I moved in this very Hall a motion for the enforcement of this law for a period of two years only, I was then defeated. That motion of mine was not carried. When I opposed the motion, I entreated the members of the Select Committee to keep a strict eye over the poor as regards the stamp fees on bonds, etc.; but it was apparent that the Select Committee did not pay any attention to my entreaties. And as it appears to me, I do not see there is any prospect of any reasonable motion being carried in a Council as at present constituted for Bengal.

Motions Nos. 48-50 are very reasonable motions indeed from the point of view of the poor people of Bengal. Sir, any amount of reasoning here will be like a cry in the wilderness. For this reason, I have moved this motion with a despondent heart, but I have every reason to think that it will bode at least some good to the country. The members of this

Council are well-educated and enlightened. We cannot pass any judgment on any views expressed by them. Our hands, Sir, are tied. But we cannot restrain the feelings of our heart, and we are constrained to speak out the truth, however unpleasant it might be. The poem of that famous Persian bard, Saint Bualy Kolondar, may be aptly recalled to our memory. It runs thus:—

Ahlay Dunyâ Mal Sim Zor Gor ba daste Arod Khurod Khuna Zigor Badaha-rabobi Koz Bahra Mal Khun Akhaon padar Darad Halal, Bohra Duniya An-Aaday aa Kholof dina Khudra wo Karday talaf.

That is to say, man is ever ready to suck the life-blood of others if he can secure power, pelf, etc. That brothers and sisters, sons and daughters, parents and guardians, have been murdered by the kings for their kingdoms is amply proved by history. Ajid, the King of Damascus, did not feel the slightest hesitation in murdering the grandson of the Prophet for attaining worldly powers. Thus it is seen that for the attainment of one's own object, justice is trampled under foot. I do not like to dilate much on this point in the midst of such a learned assembly, but having regard to the attitude of the bulk of the members of this Council to-day, I feel bound to own that at this critical juncture, there is no other way out for us but to seek for mutual help and co-operation. As almost all the motions are lost, I would put forward the present motion of mine before my colleagues for lenient treatment.

I have several arguments to advance, but as these become unavailing, I have no other alternative left but to invite the attention of the Hon'ble Member in charge in particular, as also of the other members of this House, in Urdu. I know, Sir, that most of the members present feel considerable difficulty in understanding me, especially as I address them in Bengali. But Urdu perhaps is the *lingua franca* of the country, and I fully hope that members will not have any difficulty in following me if I speak in Urdu.

This motion, Sir, as I have already said, is moved on behalf of the poor. Persons, when in distress, take loans, and are liable to pay for stamps. For this reason, the stamp duty should not be enhanced.

Lastly, Sir, I would observe that if all the motions are not carried in this way, the non-co-operators will laugh at us. I would therefore ask that the stigma which has hitherto engulfed the Bengal Legislative Council may be removed by accepting one or two motions of a trivial nature like this.

Sir, there are abundant proofs that thousands and thousands of non-co-operators are begging from door to door to mitigate the distress of the poor. I, too, Sir, as a co-operator, and not as a non-co-operator, have come here to-night to beg of you that my motion be carried so that the burdens under which the poor are groaning be relieved to a certain extent, if not wholly.

The following amendment standing in the name of Rai Harendra Nath Chaudhuri was, in the absence of the members, deemed to be withdrawn:—

That in Schedule 1A, article 15—

(*1*) for the last entry in the first column, the words 'where it exceeds Rs. 1,000 but does not exceed Rs. 5,000' shall be substituted, and that after that entry as so substituted, the following entry shall be added, namely,—

'and for every Rs. 500 or part thereof in excess of Rs. 5,000'

and that the words 'Three rupees twelve annas' be inserted in the second column opposite to the said new entry.

(*2*) in the second column for the existing entries after the first three up to 'Three rupees twelve annas' where it occurs for the second time, the following be substituted, namely,—

'One rupee, One rupee eight annas, Two rupees, Two rupees eight annas, Three rupees, Three rupees eight annas, Four rupees, Four rupees eight annas, Five rupees, Three rupees two annas.'

Babu AMULYA DHONE ADDY: I move that in Schedule 1A, article 15, in the second column—

'(*a*) for the words "One rupee four annas" the words "One rupee" be substituted,

(*b*) for the words "One rupee fourteen annas" the words "One rupee eight annas" be substituted,

(*c*) for the words "Two rupees eight annas" the words "Two rupees" be substituted,

(*d*) for the words "Three rupees two annas" the words "Two rupees eight annas" be substituted,

(*e*) for the words "Four rupees eight annas" the words "Three rupees twelve annas" be substituted,

(*f*) for the words "Five rupees four annas" the words "Four rupees ten annas" be substituted,

(*g*) for the words "Six rupees" the words "Five rupees" be substituted,

(*h*) for the words "Six rupees twelve annas" the words "Five rupees ten annas" be substituted,

(*i*) for the words "Seven rupees eight annas" the words "Six rupees four annas" be substituted.'

My amendment is the same as that which has been moved by Mr. Tarit Bhusan Roy. The proposal appears to be a very moderate one as will appear from the note of dissent by Mr. Roy and a few other members of the Select Committee. They have stated that there should not be any

increase in the present rate where the amount does not exceed Rs. 500; for bonds exceeding Rs. 500 but not exceeding Rs. 1,000 the increase should be 25 per cent. instead of 50 per cent. as suggested in the report. First of all, I would explain to you the very object of the levy of duty on bonds. It appears that under Regulation VI of 1797, the maximum duty on a bond was Re. 1 only. Then, under Regulation 1 of 1814, it was increased. Above rupee one lakh the duty was Rs. 150, but under Act I of 1879, the rate was increased to ½ per cent. as at present. But it appears that in the case of bonds it has been proposed that there should be an increase of 50 per cent. but up to Rs. 100 there should be no increment. What I beg to submit is that there should be no increment up to Rs. 500, instead of Rs. 100 and between Rs. 500 and Rs. 1,000 the rate should be an increment of 25 per cent. only and above Rs. 1,000 there is no objection to an increase of 50 per cent.

Then, Sir, as regards the desirability of this increment, it appears that the object with which this duty was levied was to ensure genuineness and to discourage litigious complaints, and it was imposed for the first time for increasing the public revenue. So it would appear, Sir, to ensure genuineness and discourage litigation that this duty was levied and at that time the maximum duty was, as I have stated, one rupee only. Now it has been increased gradually so that there is no maximum and the rate of duty is ½ per cent. Then, Sir, with reference to the bonds, I would draw the attention to the opinions which have been received from the various public bodies. The East Bengal Landholders' Association have expressed the opinion that any attempt to impose fresh taxation upon the people in the present economic condition of the country would be unwise and is undesirable for various reasons. Then, Sir, they have recommended that the Bill should be dropped altogether. Further, the Bengal Landholders' Association have stated that in the case of bonds more than 25 per cent. increment would operate as a hardship on the inhabitants outside Calcutta. The Bengal Mahajan Sabha, of which Mr. Tarit Bhusan Roy is the worthy representative, has stated that it should not be increased and if it is increased at all, it should not be more than 25 per cent. Now I beg to submit that it will appear from the amendment that it is very moderate because for the bonds of more than Rs. 1,000 there is no proposal for any reduction whatever. But simply to grant relief to the poor that this proposal has been made and, as I stated yesterday, even the Secretary of State for India has admitted in the House of Commons that the people of India are very poor and are overtaxed. Now, Sir, the object is to grant some relief to the poor and I hope and trust that this suggestion would be accepted by the Government as well as by the Council. The Hon'ble Mr. Kerr has stated that if these amendments are accepted, there will be substantial reduction in the revenue, but I beg to submit that there is no maximum of the amount of stamp duty on bonds. I do not think there will be a substantial reduction, but it would simply grant relief to the poor and it would reduce the

revenue to a few thousands or even a lakh of rupees. It has been stated that we must have a surplus and if we make these reductions, there will have no surplus and therefore, we shall not have the borrowing capacity, but I may be allowed to draw the attention to this fact that even in the Bill, which has just been introduced in the Indian Legislative Assembly by the Government of India, there is a deficit of about 3 crores of rupees. With these remarks, I beg to support the amendment which has been so ably moved by Babu Tarit Bhusan Roy. Had Mr. Mallik been present there is not the slightest doubt that the report of the Select Committee would have been otherwise.

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to withdraw the amendment standing in my name.

That in Schedule 1A, article 15, for the words ,' Two annas ' to ' Three rupees twelve annas " where they occur for the second time, the following be substituted, namely—

Two annas six pies.
Five annas.
Ten annas.
One rupee four annas.
One rupee fourteen annas.
Two rupees eight annas.
Three rupees two annas.
Three rupees twelve annas.
Four rupees ten annas.
Five rupees
Five rupees ten annas.
Six rupees four annas.
Three rupees two annas.

Babu FANINDRALAL DE: I move that in Schedule IA, article 15, in the second column for the words ' One rupee four annas,' ' One rupee fourteen annas,' ' Two rupees eight annas,' and ' Three rupees two annas,' the words ' One rupee,' ' One rupee eight annas,' 'Two rupees,' and ' Two rupees eight annas, ' respectively, be substituted.

When the Bill was introduced and a discussion followed, the Council was practically unanimous with regard to the principle that the poorer section of the community should be taxed as little as possible. This, unfortunately, has not been adhered to in the present case. The poor are very often required to take loans on the execution of bonds and it will be a great relief to the majority of such unfortunate cases, if the maximum limit on which the enhanced rates are not to apply be moderately raised. I therefore move that in clause 15, Schedule 1A, the stamp duty for bonds up to Rs. 500 be not increased.

Maulvi HAMID-UD-DIN KHAN: As regards this amendment, I only wish to add that up to Rs. 5,500, the duty should be as before. My reason for this is that up to Rs. 500 the poor people will not be affected. With these words, I beg to support this amendment.

Maulvi MUHAMMAD ABDUL JUBBAR PAHLOWAN: As the people are already overtaxed and their discontent is great, I am quite sure further taxation will make matters worse so far as the people are concerned and you make them more discontented.

At this stage the Council was adjourned for 20 minutes.

After the adjournment.

Babu SURENDRA NATH MALLIK: This amendment is for reducing the rate up to Rs. 200 or rather of leaving the present rate unchanged. But I do remember that by these taxation Bills, we have got to realise money for meeting the deficit. The Council has already accepted that position. I also further remember that the largest number of bonds are within and up to Rs. 500, so that if they say that if you drop the Rs. 500 there should not be enough money forthcoming. By leaving the amount up to Rs. 100, we are losing 1½ lakhs of rupees, and if we insist on leaving it to Rs. 500, I think we should lose another Rs. 5,00,000. If left to me, I should certainly do it, but I am not the master of the situation and it is really the Financial Member who is the master of the situation. I would therefore suggest to the good and kind Mr Kerr that he might accept a *viâ media*. I would suggest that he may leave it up to Rs. 250 or at any rate up to Rs. 200. If he accepts that, I think it would relieve a large number of people in our country, because a large number of mortgage bonds and deeds are within and up to Rs. 200 and Rs. 250 and, therefore, we might do a good deal of service by accepting a *viâ media*. It is not a question of principle. In a question of principle, I am determined to fight up to the last, but in a matter of detail, it is better that we should always come to a compromise I would therefore humbly suggest to the Hon'ble Member to accept Rs. 250 or Rs. 200 limit. I know there are persons who assume certain virtues which they do not possess. But I also know there are persons who assume vices which they do not practise. The Hon'ble Mr. Kerr has assumed the vice of hard-heartedness although he is not really a hard-hearted person, and so I would ask the good and kind Mr. Kerr that he would be able to accept my suggestion because we are really helpless. I am pleading on behalf of those who are really helpless. It is the poor for whom I am pleading. It is always the man who borrows who has got to pay, and it is always the poor man who has to borrow. Of course, in cases where there is a purchase of property, it is natural that the purchaser should pay and it would make very little difference to him. But it makes a good deal of difference when a poor man who borrows money has also got to pay for the same. I therefore hope that Mr. Kerr would find his way to accept this suggestion.

The Hon'ble Mr. J. H. KERR: We are now dealing with an article which undoubtedly affects the poorer classes. It is the only article in the Bill which affects them in an important manner. That fact has been recognised throughout the proceedings on the Bill. The original Expert Committee composed of hard-headed business men recognised the fact when they proposed that there should be no enhancement up to Rs. 100 and an enhancement of 25 per cent. only between Rs. 100 and Rs. 500. In the Select Committee, we considered the matter again and the majority of us decided to leave the rates proposed by the Expert Committee. There was, however, a very strong feeling in the Select Committee that we ought to do something more and that feeling has been voiced to-night by the movers of these amendments and by the other members who have spoken. I feel, therefore, Sir, that we ought to try to meet the wishes of the Council or a considerable majority of the Council in this matter, as far as we can, without sacrificing revenue unduly. The Expert Committee estimated that the cost of their concessions would be 1½ lakhs of rupees as Babu Surendra Nath Mallik has just mentioned. It is very difficult to estimate the loss which would be caused by further concessions because we have very few details regarding the documents which come under this Stamp Act. But we do know that in the case of court-fees it is the medium amounts between Rs. 100 and Rs. 500 which really count, and if we made any considerable concession on these amounts we should lose a good deal of money—much more than we can afford. If we lose Rs. 5,00,000 then one-fourth of our surplus is gone. So after considering the matter I am prepared to accept the amendment of Shah Syed Emdadul Haq to the effect that bonds up to Rs. 200 should be exempted from enhancement of stamp duties. In regard to Babu Surendra Nath Mallik's suggestion that we should exempt bonds up to Rs. 250, I would point out the objection that the scale in the Act as it stands proceeds by even hundreds of rupees, and there will be complications if we introduce fifties, so I think that we should stick to hundreds. We are going a good way if we go as high as Rs. 200. The present duty on bonds between Rs. 200 and Rs. 300 is Re. 1-8-0 and under our proposal it would be Re. 1-14-0, a difference of 6 annas only. Similarly, on bonds between Rs. 300 and Rs. 400 the present rate is Rs. 2 and we propose to raise it to Rs. 2-8-0—a difference of 8 annas only. So that the people who are affected by bonds between Rs. 200 and Rs. 500 will not find their charges very greatly increased under the proposal which I have just made.

The other amendments propose exemption up to Rs. 500 and in some cases up to Rs. 1,000. I trust the Council will agree with me that these concessions are greater than we ought to make. Bonds above Rs. 200 do not affect the poorest classes of the people, and I think that the Council will agree with me that we should not be justified in going above Rs. 200.

Babu TARIT BHUSAN ROY: After the explanation of the Hon'ble Finance Member, I beg to withdraw my amendment.

The amendment, standing in the name of Shah Syed Emdadul Haq, was then put and carried.

The amendment standing in the name of Babu Amulya Dhone Addy was then put and lost.

The other amendments were withdrawn.

The DEPUTY-PRESIDENT: The question is that article 15, as amended, stand part of the Bill.

The motion was then put and agreed to.

Article 16.

The DEPUTY-PRESIDENT: The question I now have to put is that article 16 stand part of the Bill.

The motion was put and agreed to.

Article 17.

The DEPUTY-PRESIDENT: The question I now have to put is that article 17 stand part of the Bill.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in Schedule 1A, article 17, for the words 'Ten rupees' in the second column, the words 'seven rupees eight annas' be substituted.

This is with regard to article 17 (cancellation). In the Act there is no description of instruments of release though the original sum required was Rs. 5. I hope the Council will accept my amendment and I trust that Rs. 7-8-0 will be substituted for ten rupees.

The Hon'ble Mr. J. H. KERR: I am very glad to be able to accept Rai Mahendra Chandra Mitra Bahadur's amendment. It is a fact, as he points out, that the duty which we propose on a release is only Rs. 7-8-0, and there is something to be said for putting cancellation and release on the same footing. I should be inclined myself to raise the duty on a release to Rs. 10 instead of reducing cancellation to Rs. 7-8-0, but as matters stand, I think we had better leave release alone and accept the amendment to reduce cancellation to Rs. 7-8-0 as suggested by the Rai Bahadur.

The motion was then put and agreed to.

The DEPUTY-PRESIDENT: The question is that article 17, as amended, stand part of the Bill.

The motion was then put and agreed to.

The DEPUTY-PRESIDENT: The question I now have to put is that article 18 stand part of the Bill

The motion was put and agreed to.

Article 20.

The DEPUTY-PRESIDENT: The question I now have to put is that article 20 stand part of the Bill.

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to withdraw the amendment standing in my name.

The following amendment was then, by leave of the Council, withdrawn:—

That in Schedule 1A, article 20, for the words 'Two rupees' in the second column the words 'One rupee eight annas' be substituted.

The DEPUTY-PRESIDENT: The question is that article 20 stand part of the Bill.

The motion was put and agreed to.

Article 22.

The DEPUTY-PRESIDENT: The question I now have to put is that article 22 stand part of the Bill.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in Schedule 1A, article 22, for the words 'Fifteen rupees' in the second column, the words 'Twelve rupees eight annas' be substituted.

This motion has to deal with article 22. It is suggested in the Bill that the amount to be levied be Rs. 15. My suggestion is that it should be Rs. 12-8-0. Now, at first sight, it would appear that the reduction is not so appreciable as one would like it to be, but when you look at the nature of the transaction, or the nature of the document, it appears that Rs. 15 seems to me to be a large amount and a reduction is desirable. Now this article 22 deals with composition-bond, that is to say, any instrument executed by a debtor, whereby he conveys his property for the benefit of the creditors. We should take a liberal view of the matter and I trust the Council will accept my suggestion.

The Hon'ble Mr. J. H. KERR: It is conceivable that in some cases the duty on a composition-deed might press with some severity upon poor and insolvent debtors. Probably in most cases they are not very deserving persons, but they are undoubtedly poor. If, therefore, the Council are in favour of the motion of Rai Mahendra Chandra Mitra Bahadur to reduce the duty from Rs. 15 to Rs. 12-8-0, I have no objection.

The motion was then put and agreed to.

The DEPUTY-PRESIDENT: The question I now have to put is that article 22, as amended, stand part of the Bill.

The motion was put and agreed to.

Article 23.

The DEPUTY-PRESIDENT: The question I now have to put is that article 23 stand part of the Bill.

Babu AMULYA DHONE ADDY: I move that in Schedule 1A, article 23, in the second column—

'(*a*) for the words "Twelve annas" the words "Eight annas" be substituted,

(*b*) for the words "One rupee eight annas" the words "One rupee" be substituted,

(*c*) for the words "Three rupees" the words "Two rupees" be substituted,

(*d*) for the words "Four rupees eight annas" the words "Three rupees" be substituted,

(*e*) for the words "Six rupees" the words "Four rupees" be substituted,

(*f*) for the words "Seven rupees eight annas" the words "Five rupees" be substituted,

(*g*) for the words "Nine rupees" the words "Seven rupees eight annas" be substituted,

(*h*) for the words "Ten rupees eight annas" the words "Eight rupees twelve annas" be substituted,

(*i*) for the words "Twelve rupees" the words "Ten rupees" be substituted,

(*j*) for the words "Thirteen rupees eight annas" the words "Eleven rupees four annas" be substituted,

(*k*) for the words "Fifteen rupees" the words "Twelve rupees eight annas" be substituted.'

The proposal of the Select Committee is that the rate of duty on conveyances executed in Calcutta should be increased by 50 per cent., but I suggest that it might be increased by 25 per cent. only. As a member of the Select Committee, I have submitted a note of dissent, and I beg to draw the attention of the House to that note of mine. It runs as follows:—

"The stamp duty on conveyances in Calcutta should not be enhanced."

The DEPUTY-PRESIDENT: The report is already in the hands of the hon'ble members; they can refer to it.

Babu AMULYA DHONE ADDY: I would like to draw your attention to the fact that so far as Calcutta is concerned under section 82 of the Calcutta Improvement Act, there is a duty of 2 per cent. on conveyances in addition to a duty of one per cent. under the Indian Stamp Act. So far as the mufassal is concerned, only $\frac{1}{2}$ per cent. as stamp

duty has to be paid on conveyances, but for Calcutta, the rate of duty is 3 per cent., while in the mufassal and other parts of Bengal the rate of duty is only 1 per cent. It is sought to increase it further in respect of Calcutta. But I do not think the income will be a large one, because so far as the tea estates of Assam and the coal mines of Bihar are concerned; if you increase the rate of duty on conveyances in Calcutta, the result will be that they will be executed outside Bengal. The conveyances of tea estates are likely to be executed in Assam and those of collieries in Bihar. That is the opinion held by the incorporated law society. That is also the opinion held by the Bengal Mahajan Sabha and the Bengal National Chamber of Commerce which I have the honour to represent in this Council. It seems to be a very moderate one. They suggest that the rate of duty may be increased by 25 per cent. only instead of 50 per cent. as proposed by the Select Committee.

So far as the citizens of Calcutta are concerned, it will surely be a great hardship to them. They have to pay a heavy rate at 19½ per cent. under the Calcutta Municipal Act. The Calcutta Corporation has already committed itself to a water-supply scheme which will cost not less than Rs. 2 crores; they will also incur a heavy expenditure of say Rs. 1 crore for the improvement of the drainage of Calcutta. Perhaps they will increase their rates in the near future, or even next year, because their expenditure even at present is more than their revenue. Therefore, if we increase the rate of duty on conveyances in Calcutta, the people will have to pay very heavy sums as taxes. But, Sir, as the object of the taxation Bills is to remove the deficit of the Government of Bengal, the National Chamber of Commerce has suggested, and so do I, that the rate of duty may be increased by 25 per cent. I may be allowed to say that when the principle of this Bill was under discussion in the Council, some of the leading members stated that it would be a great hardship on the citizens of Calcutta if the rate of duty was increased by 50 per cent.

With these remarks, I beg to commend the resolution to the acceptance of the House.

Mr. TARIT BHUSAN ROY: May I have your permission, Sir, to withdraw the amendment standing in my name, as I find that I cannot justify my amendment?

The following amendment, standing in the names of Mr. Tarit Bhusan Roy and Rai Upendra Lal Ray Bahadur, was then, by leave of the Council, withdrawn:—

That in Schedule IA, for article 23, the following be substituted, namely,—

'23. Conveyance [as defined by section 2 (*10*)], not being a transfer charged or exempted under No. 62—

where the amount or value of the consideration for such conveyance as

set forth therein, does not exceed Rs. 50	Eight annas.
where it exceeds Rs. 50, but does not exceed Rs. 100	One rupee.
where it exceeds Rs. 100 but does not exceed Rs. 200	Two rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300	Three rupees.
where it exceeds Rs. 300 but does not exceed Rs. 400	Four rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500	Five rupees.
where it exceeds Rs. 500 but does not exceed Rs. 600	Seven rupees eight annas.
where it exceeds Rs. 600 but does not exceed Rs. 700	Eight rupees twelve annas.
where it exceeds Rs. 700 but does not exceed Rs. 800	Ten rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900	Eleven rupees four annas.
where it exceeds Rs. 900 but does not exceed Rs. 1,000 ...	Twelve rupees eight annas.
and for every Rs. 500, or part thereof in excess of Rs. 1,000	Six rupees four annas.

N.B.—These rates should apply in case of properties situate in places outside Calcutta. For properties situate in Calcutta the same rate as per Schedule 1.'

The following amendments, standing in the names of Babu Fanindra-lal De, Babu Indu Bhushan Dutta and Maulvi Hamid-ud-din Khan, were also, by leave of the Council, withdrawn:—

That in Schedule 1A, article 23, in the second column for the words 'Twelve annas,' 'One rupee eight annas,' 'Three rupees,' 'Four rupees eight annas,' 'Six rupees,' and 'Seven rupees eight annas,' the words 'Eight annas,' 'One rupee,' 'Two rupees,' 'Three rupees,' 'Four rupees' and 'Five rupees' respectively, be substituted.

SHAH SYED EMDADUL HAQ spoke in Bengali. His speech, translated, is as follows:—

I move that in Schedule 1A, article 23, in the second column—

(*i*) for the words 'twelve annas,' the words 'eight annas';

(*ii*) for the words 'one rupee eight annas,' the words 'one rupee'; and

(*iii*) for the words 'three rupees' the words 'two rupees';

be substituted.

The motion which I have brought forward is purely meant for the poor. The poor people make a deed of gift to their sons, daughters, etc., and the transactions usually take place to the extent of Rs. 200 or so. I wish to confine my remarks to matters not exceeding Rs. 200. The magnanimity which has been displayed by the Hon'ble the Member in charge in accepting my motion for bonds, etc., is thoroughly acknowledged. Sir, immense good will be done to the poor if this motion is carried in Council. I have several reasons to offer in support of my motion, and with your permission, I wish to speak in Urdu. Speeches, in other words, mean the expression of one's own views, and it is necessary that those views should be conveyed to others through the medium of a language understandable by every one. Sir, it is difficult, no doubt, for the Europeans to understand Bengali, but I take it that it is easy for them to understand Urdu. I therefore desire to address the Council in Urdu. May I have your permission, Sir?

The DEPUTY-PRESIDENT: You may speak in Urdu.

It is usually seen that *kabalas* even under Rs. 50 have not been exempted from increased charges. So I hope that the Hon'ble the Member in charge will see his way to get my motion carried to the extent of Rs 100 or Rs. 150, if not possible to the extent of Rs. 200. We shall then be in a position to tell the non-co-operators who are inciting the people of this country, and causing grave unrest, that the Reformed Council is not a farce. Justice is done there. But, Sir, if nothing is done, the maxims of the non-co-operators will certainly prevail.

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to withdraw my amendment.

The following amendment was then, by leave of the Council, withdrawn:—

That in Schedule 1A, article 23, for the entries in the second column, the following be substituted, namely,—

'Ten annas.

One rupee four annas.

Two rupees eight annas.

Three rupees twelve annas.

Five rupees.

Six rupees four annas.

Seven rupees eight annas.

Eight rupees twelve annas.

Ten rupees.

Eleven rupees four annas.

Twelve rupees eight annas.

Six rupees four annas.'

Babu FANINDRALAL DE: I beg to withdraw my amendment.

The following amendment was then, by leave of the Council, withdrawn:—

That in Schedule 1A, article 23, in the second column the following new column be added, namely,—

' in Calcutta—

Ten annas.

One rupee four annas.

Two rupees eight annas

Three rupees twelve annas.

Five rupees.

Six rupees four annas.

Seven rupees eight annas.

Eight rupees twelve annas.

Ten rupees.

Eleven rupees four annas.

Twelve rupees eight annas.

Six rupees four annas '

Babu SURENDRA NATH MALLIK: From what I have heard of the speech of Babu Amulya Dhone Addy, I certainly oppose him when he makes a suggestion that in article 23 the rate of Rs. 15 be altered to Rs. 12-8-0, and he has spoken much about Calcutta. The point which I most particularly object to is this that no tax ought to be levied at this difficult time particularly in Calcutta. I am opposed to the interest of land-owners in Calcutta and I am not going to say one word in their favour. Land values in Calcutta have gone up artificially ten times and the owners of lands are anxious to avoid such taxes. I am opposed to that. If anybody has got to pay it, it is these gentlemen who are anxious to purchase property. There is no reason why because there is an additional duty of 2 per cent. levied by the Calcutta Improvement Act that Calcutta should be differently treated. There is no reason whatsoever. For that extra 2 per cent. we are certainly getting improvements.

There is absolutely no reason to say that because Calcutta is already paying 2 per cent. extra, it should be treated differently from the residents in other parts of the province. I am opposed to that.

I am very gald to see that my friends Mr. Tarit Bhusan Roy, Rai Upendra Lal Ray Bahadur, Mr. Fanindralal De, Babu Indu Bhushan Dutta and Maulvi Hamid-ud-din Khan have found their way to withdraw the amendments they have sent. If anybody has to pay, it is the Calcutta land-owners. Certainly it is the rich people who should pay; it is not the poor who can pay and their question does not come in. It does not involve a question of borrowing by the poor for which we begged the Hon'ble Mr. Kerr the other day to kindly accede to our request. The situation is not the same here but just the opposite. There must be no clemency; land-owners must pay.

The Hon'ble Mr. J. H. KERR: I am afraid I am going to disappoint Maulvi Shah Syed Emdadul Haq, who seems to think that every time he mentions Rs. 200 it will touch my heart, but the amendment we are considering now stands of course on an entirely different footing from the one in which we have met his wishes. We are here taxing properties on their value and it is equitable that the vendor or the purchaser should pay increased duties on them. It is no hardship that stamp duty should be calculated at uniform rates on the value of the property transferred. We are advised that we can safely put an extra 50 per cent. on these transactions, and I therefore oppose the amendment of Babu Amulya Dhone Addy.

The motions were then put and lost.

The DEPUTY-PRESIDENT: The question is that article 23 stand part of the Bill.

The motion was put and agreed to.

Article 24.

The DEPUTY-PRESIDENT: The question I now have to put is that article 24 stand part of the Bill.

Mr. TARIT BHUSAN ROY: May I have your permission to move the amendment standing in the name of Rai Radha Charan Pal Bahadur? I will not make any speech. I formally move that in Schedule 1A, article 24 be omitted.

Maulvi HAMID-UD-DIN KHAN: I beg to withdraw my amendment.

The following amendment was then, by leave of the Council, withdrawn:—

That in article 24, of Schedule 1A, for the words 'Twelve annas' and 'One rupee eight annas' in the second column, the entries 'Ten annas' and 'One rupee four annas shall be substituted.

Mr. H. E. SPRY: I understand we are dealing with amendments Nos. 71 and 72. The absence of Rai Radha Charan Pal Bahadur has made my position easier. For copies or extracts certified to be true copies by public officers, and not chargeable under the law for the time being in force relating to court-fees, the Bill proposes an increase of 50 per cent. Amendment 71 as it stands says there should be no increase at all. If Rai Radha Charan Pal Bahadur were here, we should have the opportunity of hearing what particular reason he has for holding that this article should be omitted from the new Schedule, and that Government should derive no increase of revenue from it. So far as the proposed increase of 50 per cent. is concerned, it is a reasonable proposition; and I oppose the amendment.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that article 24 stand part of the Bill.

The motion was then put and agreed to.

Article 25.

The DEPUTY-PRESIDENT: The question I now have to put is that article 25 stand part of the Bill.

The motion was put and agreed to.

Article 26.

The DEPUTY-PRESIDENT: The question I now have to put is that article 26 stand part of the Bill.

The following amendment, standing in the name of Rai Mahendra Chandra Mitra Bahadur, was deemed to have been withdrawn as the member was absent:—

That in Schedule 1A, article 26 (*b*) for the words 'Ten rupees' in the second column, the words 'Seven rupees eight annas' be substituted.

The DEPUTY-PRESIDENT: The question is that article 26 stand part of the Bill.

The motion was put and agreed to.

Article 27.

The DEPUTY-PRESIDENT: The question I now have to put is that article 27 stand part of the Bill.

The motion was put and agreed to.

Article 29.

The DEPUTY-PRESIDENT: The question I now have to put is that article 29 stand part of the Bill.

SHAH SYED EMDADUL HAQ spoke in Bengali. His speech, translated, is as follows:—

I beg to move that in Schedule 1A, article 29, at the beginning of the article the figure (*i*) shall be inserted, and

(*1*) in the first column after the word 'person' the words 'except as provided in clause (*ii*) of this article' be inserted;

(*2*) to that article the following shall be added, namely,—

'(*ii*) Instrument of divorce by a Muhammadan where the amount of dower does not exceed rupees five hundred	One rupee.'

This motion mainly relates to the poor Muhammadans of this country. It looks ugly in the eyes of the public that the stamp fees have been doubled when divorce-cases are concerned, and especially on the face of the fact that the stamp fees have been increased to the proportion of one to one-and-half. My intention to reduce the stamp fees is with a view to save the poorer classes of Muhammadans whose dowry is less than Rs. 500. It does not matter much if the stamp fees are increased to the extent of Rs. 20 in the case of the affluent people. No such system obtains amongst the Hindus, but this sad question of divorce not infrequently arises for some reason or other in my community. Sir, this system serves to allay the discontent existing between the husband and the wife and it will be extremely hard lines on the poor to secure a divorce if they have to pay Rs. 2 when previously they paid Re. 1. Under these circumstances, I suggest that my proposal is very modest, and I hope and trust that this will be carried in Council. Let me add, Sir, that if this motion is not carried, the Bengal Legislative Council will assuredly be branded with infamy by the poor Muhammadans of Bengal on whose felicities in life it has put an almost prohibitory decree.

Mr. H. E. SPRY: This amendment appears to proceed from the principle that the cheaper the wife the cheaper the divorce. The duty on an instrument of divorce has been increased from Re. 1 to Rs. 2 and I suggest that if the relations of a man with his wife become such that it is necessary that there should be a divorce, it is very cheap at Rs. 2.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that article 29 stand part of the Bill.

The motion was put and agreed to.

Article 30.

The DEPUTY-PRESIDENT: The question I now have to put is that article 30 stand part of the Bill.

Mr. TARIT BHUSAN ROY: If I did not know that I was a member of the legal profession, I also might have felt no hesitation in pressing this amendment before the House, but realising the fact that I belong to that profession I think I ought to withdraw my amendment.

The following amendment was then, by leave of the Council, withdrawn:—

That in Schedule 1A, article 30 be omitted.

Rai UPENDRA LAL RAY Bahadur: I beg to withdraw the amendment which stands in my name.

The following amendment was then, by leave of the Council, withdrawn:—

That in Schedule 1A, article 30 be omitted.

The following amendment, standing in the name of Babu Fanindralal De, was deemed to have been withdrawn as the member was absent:—

That in Schedule 1A, after article 30 (*a*), the following be added, namely,—

'(*aa*)	in the case of any person practising in any subordinate court in the province, when the Bengal Stamp (Amendment) Act, 1922, comes into operation	"Five hundred rupees." '

The DEPUTY-PRESIDENT: The question is that article 30 stand part of the Bill.

The motion was put and agreed to.

Article 31.

The DEPUTY-PRESIDENT: The question I now have to put is that article 31 stand part of the Bill.

The motion was put and agreed to.

Article 32.

The DEPUTY-PRESIDENT: The question I now have to put is that article 32 stand part of the Bill.

The motion was put and agreed to.

Article 33.

The DEPUTY-PRESIDENT: The question I now have to put is that article 33 stand part of the Bill.

The motion was put and agreed to.

Article 34.

The DEPUTY-PRESIDENT: The question I now have to put is that article 34 stand part of the Bill.

The motion was put and agreed to.

Article 35.

The DEPUTY-PRESIDENT: The question I now have to put is that article 35 stand part of the Bill.

Babu AMULYA DHONE ADDY: I am not very well and as it is almost adjournment time (7-15 P.M.) I would like to move my amendment to-morrow.

The Hon'ble Mr. J. H. KERR: If it is the sense of the Council that it should adjourn we might take up the next amendment to-morrow.

Adjournment.

The Council was then adjourned till Friday, the 10th March, 1922, at 3 P.M. at the Town Hall, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber in the Town Hall, Calcutta, on Friday, the 10th March, 1922, at 3 P.M.

Present:

The Deputy-President in the Chair, the Hon'ble the four Members of the Executive Council, the Hon'ble the three Ministers, and 97 nominated and elected members.

Oath.

The following member took an oath of his allegiance to the Crown:—

Mr. THOMAS CLARK CRAWFORD.

Starred Questions

(to which oral answers were given).

Pay and prospects of Sub-Registrars.

* **XXX. Babu BHISHMADEV DAS:** (*a*) Will the Hon'ble the Minister in charge of the Department of Education be pleased to state whether he has received a copy of the resolution passed at the annual meeting of the "Registration Service Association"?

(*b*) If the answer to (*a*) is in the affirmative, what action, if any, are the Government contemplating taking in the matter?

(*c*) Is it a fact that the sum of Rs. 75,000 allotted in the Budget of 1921-22 for the improvement of the pay of sub-registrars has been appropriated for purposes other than what it was budgeted for?

(*d*) If so, will the Hon'ble the Minister be pleased to state the purpose to which the allotted sum has been appropriated?

(*e*) Is it a fact that in his budget speech, the Hon'ble the Minister promised that he would materially improve the condition of the officers of the Registration Department?

(*f*) Is the Hon'ble the Minister in a position now to make an announcement regarding the revision of the salary of sub-registrars?

(*g*) Is the Hon'ble the Minister aware that a feeling of disappointment and discontent prevails among sub-registrars in regard to their prospects?

(*h*) What has been the annual expenditure on account of the salaries of the sub-registrars during the past year?

(*i*) Do the Government propose to allot in the Budget for 1922-23 any sum for the purpose of improving the pay and prospects of sub-registrars?

(*j*) If so, what percentage would this sum bear to the present annual expenditure on account of the pay of sub-registrars?

MINISTER in charge of DEPARTMENT of EDUCATION (the Hon'ble Mr. P. C. Mitter): (*a*) The answer is in the affirmative.

(*b*) The member is referred to the answer given to clause (*a*) of unstarred question No. 81 of the 17th January, 1922.

(*c*) Yes.

(*d*) Owing to the revision of budget estimates which became necessary in October, 1921, this amount was resumed along with other sums retrenched in all Departments.

(*e*) The Minister promised that subject to financial conditions he would do all in his power to improve the pay and prospects of the Department.

(*f*) Not immediately; but it is hoped that orders on the subject may soon issue.

(*g*) Representations on the subject have been received by Government.

(*h*) In 1920-21, the annual expenditure on account of the salaries of sub-registrars was Rs. 6,04,877.

(*i*) The Education Department have proposed a lump sum allotment of Rs. 3,35,000 and have included this amount in the Schedules which will be considered in connection with the supplementary budget which Government hope to introduce if the taxation proposals are accepted.

(*j*) 55 per cent.

Dacca District Board.

***XXXI. Mr. TARIT BHUSAN ROY:** Will the Hon'ble the Minister in charge of the Department of Local Self-Government be pleased to lay on the table a statement showing—

(*i*) what was the total income of, and what were the augmentation grants received by, the District Board of Dacca during the last five years;

(*ii*) what were the total contributions made by that Board to the several local boards during such period; and

(iii) what sums were spent by that District Board during the said period on—

(*a*) Establishment;

(*b*) Furniture;

(*c*) Travelling allowance; and

(*d*) Interest on loans, if any?

MINISTER in charge of DEPARTMENT of LOCAL SELF-GOVERNMENT (the Hon'ble Sir Surendra Nath Banerjea): A statement is laid on the table.

Statement referred to in the reply to starred question No. XXXI, showing the income and expenditure of the Lacca District Board, during the years 1916-17 to 1920-21.

Year.	Income.	Augmentation grant.	Contribution made to the several Local Boards.				Total.	Amount spent on—			
			Sadar.	Narayanganj.	Munshiganj.	Manikganj.		Establishment.	Furniture.	Travelling allowance.	Interest items.
	Rs.	Rs	Rs.	Rs.	Rs	Rs.	Rs.	Rs.	Rs. A.	Rs.	
1916-17 ...	4,09 326	18,192	17,412	18,689	10,011	18,259	64,371	51,888	39 8	1,985	Nil.
1917-18 ...	4,59,568	30,212	14,534	17,384	7,483	17,439	56,840	56,008	Nil	2,527	,,
1918-19 ...	4,96,164	30,537	10,190	14,567	7,774	14,072	46,603	59,125	,,	2,870	,,
1919-20 ...	5,75,065	32,714	17,493	14,316	14,058	17,806	63,673	57,575	,,	3,321	,,
1920-21 ...	5,22,015	36,100	23,147	21,847	12,542	14,738	72,274	84,265	,,	4,057	,,

Recurring expenditure of the current financial year.

* **XXXII. Babu NALINI NATH ROY:** Will the Hon'ble the Member in charge of the Department of Finance be pleased to lay on the table a statement showing the money spent in the current financial year (1921-22) for recurring expenditure and for development of schemes on Reserved and Transferred subjects?

MEMBER in charge of DEPARTMENT of FINANCE (the Hon'ble Mr. J. H. Kerr): The member is referred to the Budget Estimate for 1922-23. The columns giving the revised estimate for 1921-22 show as nearly as can at present be estimated the expenditure for 1921-22. It is obviously impossible to give the actuals until the accounts for the year have been closed.

Unstarred Questions

(answers to which were laid on the table).

Kala-azar in the Narail subdivision.

230. Babu NALINI NATH ROY: (*a*) Is the Hon'ble the Minister in charge of the Department of Local Self-Government aware that Dr. Sur, the Assistant Director of Public Health, examined ten cases in village Bhadrabilla in the Narail subdivision, nine out of which have been declared kala-azar?

(*b*) If so, what action, if any, are the Government proposing to take in the matter?

The Hon'ble Sir SURENDRA NATH BANERJEA: (*a*) A copy of the report by the Assistant Director of Public Health for kala-azar survey is laid on the table.

(*b*) Copies of the report have been forwarded to the Chairman of the District Board and the Civil Surgeon, Jessore, for necessary action.

Report referred to in the reply to clause (a) of unstarred question No. 230

No. 29, dated Calcutta, the 26th January, 1922.

From—Dr. S. N. Sur, M.B., D.P.H., D.T.M., Assistant Director of Public Health, Kala-azar Survey, Bengal,

To—The Director of Public Health, Bengal.

I have the honour to submit my report on kala-azar investigation in the village Bhadrabilla of Narail thana, district Jessore. I came to know from the subdivisional officer that the Narail subdivision is generally considered as one of the healthiest subdivisions of the district. This is a fact regarding malaria. The medical officer in charge of the local dispensary informed me that kala-azar is quite prevalent there, so

much so that, within the last six months, about 100 cases from different parts came under his treatment of whom about 40 were perfectly cured, while others left before being cured.

2. I went to see the village Bhadrabilla and found eleven suspected cases, of whom six were males, the rest being females. Splenic blood was examined in five of them and in four L.D. bodies could be recovered. The fifth (female) case was negative, but had a history of her brother's death from kala-azar. Six deaths from the same cause took place within the course of last few months. But besides these, two cases were cured by Dr. U. N. Brahmachari and one is still under his treatment. The first case, diagnosed as kala-azar by Dr. Brahmachari, seemed to have brought the infection from the Kamrup district in Assam; and the local people say that he was the first case. But from careful investigation, it appeared that another case occurred in the village simultaneously. I believe that kala-azar was present there for a longer time, but the epidemic dated from the case which was diagnosed by Dr. Brahmachari.

3. The village is small and consists of about 40 families. Its population cannot be more than four hundred. It is on the bank of the Narail river and contains a large number of overgrowing trees (mango, bamboo, etc.). The sun's rays are practically shut off from the site. Enlarged spleens were found in 14 out of 20 children under 12 years examined at random. Of these fourteen with enlarged spleens, eight were suspected to be suffering from kala-azar. Again, four out of these eight were spleen punctured and three of them found to be positive. The negative case is the same one as the fifth case mentioned in the second paragraph.

4. This village is not more particularly infested with bed-bugs than the other infected and non-infected villages so as to explain the presence of such a large number of cases in a small village like this. I searched in two houses for *Conorhinous Rubrofasciatus*, but failed to catch any. A nymph was found crawling in the court-yard of a house in which a death took place from kala-azar. The place where it was found must have been at least 15 feet from its nearest possible dwelling-place. So it seems that they can crawl a long distance to reach their food. I have mentioned elsewhere that they have been found with moulted skins in old baskets within bed-rooms. This shows that the insect breeds both outside and inside the house and that the nymphs and larvæ, which are wingless, may crawl into a house in search of food from their breeding-places outside at long distances.

5. A local gentleman, Mr. J. N. Ghosh, kindly asked his brother, who appeared at the final L. M. F. Examination, to undertake the treatment of all the cases and he promised to supply free whatever medicines are required for the purpose. Further information from Mr. Ghosh shows that by treatment some benefit has already been derived in the existing cases within the last fortnight. We hope to see a similar organisation in every village for the improvement of its health as instanced by Bhadrabilla under the efforts of Mr. Ghosh.

Expenditure incurred for the officials of the Sanitary Department.

231. Rai LALIT MOHAN SINGH ROY Bahadur: Will the Hon'ble the Minister in charge of the Department of Local Self-Government be pleased to lay on table a statement showing the expenses for the last three years incurred for the officials of the Sanitary Department under the headings salaries and allowances, if any, stating the name of the officers and their respective qualifications?

The Hon'ble Sir SURENDRA NATH BANERJEA: Statements furnishing the information are laid on the table.

Statements referred to in the reply to unstarred question No. 231, showing—

(i) *The expenditure incurred for the officers of the Public Health Department, Bengal, for pay and house allowance during the years 1918-19, 1919-20 and 1920-21.*

Name.	1918-19		1919-20.		1920-21.		Total.	Qualifications.	Remarks.
	Pay.	House allowance.	Pay.	House allowance.	Pay.	House allowance.			
1	2		3		4		5	6	7
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.		
Dr. C. A. Bentley ...	22,124	1,055	22,944	1,295	34,208	630	821,56	M.B., D.P.H., D.T.M.&H.	Director of Public Health, Bengal.
Lieut.-Col. A. B. Fry, I.M.S.	...	...	1,226	...	2,800	...	4,026	M.D., D.P.H., D.T.M.&H., D.S.O., I.M.S., C.I.E.	Assistant Director of Public Health, Malaria Research, on deputation to the Government of India.
Dr. R. B. Khambata	8,400	1,505	8,400	1,505	8,400	1,386	29,596	M.R.C.S., L.R.C.P., D.P.H.	Assistant Director of Public Health, Malaria Research.
,, M. E. Sufi ...	6,019	...	8,400	...	6,950	...	23,369	B.A., L.R.C.P.&S., L.R.F.P.S., D.P.H.	Assistant Director of Public Health, Vaccination and Vital Statistics.
,, B. B. Brahmachari	6,800	955	8,354	1,505	8,400	1,505	27,519	L.M.S., D.P.H. (Cal.).	Assistant Director of Public Health, Presidency Circle.
,, S. P. Gupta ...	6,050	..	8,800	...	10,132	...	24,982	L.M.S., D.P.H.	Assistant Director of Public Health, Rajshahi Circle.

NAME.	1919-19.		1919-20.		1920-21.		Total.	Qualifications.	REMARKS.
	Pay.	House allowance.	Pay.	House allowance.	Pay.	House allowance.			
1	2		3		4		5	6	7
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.		
Dr. S. N. Sur ...	5,950	...	6,000	1,127	8,745	1,505	23,327	M.B., D.P.H., D.T.M.	Assistant Director of Public Health, Kala-azar Survey.
„ R. C. Ray ...	...	...	5,710	...	6,000	...	11,710	L.M.S., D.P.H.	Assistant Director of Public Health, Dacca Circle.
„ S. M. Ghosh ...	...	...	3,328	...	7,992	...	11,320	M.R.C.S., L.R.C.P., D.P.H.	Assistant Director of Public Health, Burdwan Circle.
„ G. L. Batra ...	129	...	7,477	...	11,087	1,325	20,017	M.B., C.H.B., D.P.H.	Assistant Director of Public Health, Industrial Hygiene.
„ S. N. Mitra ...	...	...	...	...	4,400	1,019	5,419	M.B., C.H.B., D.P.H.	Assistant Director of Public Health, School Hygiene.
Doctress R. N. Cohen	...	...	...	...	2,653	...	2,653	M.B., F.R.C.S. ...	Medical Inspectress of Girls' School, Bengal.
Dr. Panchanan Sur ...	2,194	...	2,400	...	3,000	...	7,594	M.B., D.P.H. (Cal.).	Assistant Surgeon attached to the Malaria Research, Bengal.
„ Murari Mohan Bose.	...	...	1,273	...	2,400	...	2,673	M.B. ...	Assistant Surgeon attached to Calcutta Suburban Malaria Survey.
Dr. Hari Pada Sarkar	...	...	...	...	2,200	...	2,200	M.B. ...	Ditto ditto.

,, Jyotirmay Banarji	...	...	...	...	1,840	...	1 840	M.B.	... Assistant Surgeon attached to School Hygiene.
,, Mahendra Kumar Chakravartti.	3,770	...	4,210	...	5,850	...	15,830	M.B.	... Superintendent, Bengal Vaccine Depôt.
Rao Sahib V. Gobinda Raju.	2,680	...	2,760	...	2,920	...	8,360	B.A.	... Chief Bacteriologist, Bengal Public Health Laboratory.
Rai Sahib Surendra Nath De.	2,680	...	2,760	...	2,920	...	8,360	B.A., F.C.S.	... Chief Chemist, Bengal Public Health Laboratory.
Babu Kali Prasanna Ray.	1,860	...	2,040	...	2,430	...	6,330	M.A., B.L.	... Assistant Analyst, Bengal Public Health Laboratory, on deputation as Demonstrator, Travelling Public Health Laboratory.
Babu Sachindra Kishore Das Ray.	1,710	...	1,860	...	1,890	...	5,460	.....	Assistant Analyst, Bengal Public Health Laboratory.
Babu Abinash Chandra Das Gupta.	...	...	875	...	1,500	...	2,375	B.Sc.	.. Ditto ditto.
Mr. J. Dallas ...	5,870	...	6,110	...	6,355	...	18,335	Marine Engineer	Inspector of Septic Tank Installations.
,, M. O. T. Iyengar	1,513	...	2,400	...	2,400	...	6,313	B.A., F.Z.S.	... Entomologist, Malaria Research.
Babu Narendra Krishna Chatterji.	...	...	1,500	...	1,500	...	3,000	B.Sc.	... Assistant Analyst, Bengal Public Health Laboratory.
Babu Nani Lal Banarji	...	...	460	...	1,500	...	1,960	M.Sc.	... Assistant Analyst, Bengal Public Health Laboratory, on deputation to the Calcutta Tropical School of Medicine.

Name.	1918-19.		1918-20		1920-21.		Total.	Qualifications.	Remarks.
	Pay.	House allowance.	Pay.	House allowance.	Pay.	House allowance.			
1	2		3		4		5	6	7
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs		
Miss J. F. Mackintosh	...	...	...	...	3,353	...	3,353	.....	Special Assistant for Publicity Work. The post has been abolished.
Dr. Abinash Chandra Ray Choudhury.	1,440	...	1,800	..	2,400	...	5,640	L.M.S. ...	Teacher of Hygiene, Sanitary Inspectors' Training Class.
Dr. Sarat Chandra Das Gupta.	..	...	...	...	1,258	...	1,258	M.B. ...	Assistant Surgeon attached to Stegomyia Investigation.
Grand Total ...	...	...	...	...	...	...	3,67,975		

(ii) *The expenditure for the subordinate establishment of the Bengal Public Health Department for the years 1918-19, 1919-20 and 1920-21.*

	1918-19.	1919-20.	1920-21.	Total.
	Rs.	Rs.	Rs.	Rs.
Inspectors and Sub-Inspectors of Vaccination ...	46,694	56,490	60,000	1,63,184
Ministerial establishment ...	26,467	25,148	40,000	91,615
Menial establishment ...	2,469	2,420	4,000	8,889
Laboratory establishment ...	9,593	12,064	14,000	35,657
Temporary establishment ...	10,685	22,540	78,000	1,11,225
			Total ...	4,10,570

Statement referred to in the reply to unstarred question No. 231, showing the expenses incurred for the officials of the Public Health Department, Engineering Branch, during the years 1918-19, 1919-20 and 1920-21.

Name.	1918-19.		1919-20.		1920-21.		Total.	Qualification.	Remarks.
	Pay.	House allowance.	Pay.	House allowance.	Pay.	House allowance.			
1	2		3		4		5	6	7
	Rs.	Rs	Rs.	Rs	Rs.	Rs.	Rs.		
Mr. G. B. Williams	22,218	..	22,416	...	1,548	...	46,182	M Inst. C. E.; M I. Mech E.; Fellow, Royal Sanitary Institute; Fellow, Royal Geographical Society; Fellow, Institute of Sanitary Engineers; 30 years' experience of Sanitary Engineering; late Consulting Sanitary Engineer to the Crown Agents for the Colonies	
,, F. C Griffin ...	9,110	1,405	11,048	...	13,888	...	35,451	A. M I. C. E.; 18 years' experience of Sanitary Engineering.	
,, S. N. Ghosh	2,450	...	8,400	700	8,750	1,590	21,890	B. A. (Hons.) (Calcutta); passed I. E. (Calcutta); B. Sc., Eng. (Glasgow); Gold Medalist in Mathematics from Hooghly College in B. A. Exam.; first prize in Electrical Engineering, I, from	

Name.	1918-19.		1919-20.		1920-21.		Total.	Qualification.	REMARKS.
	Pay.	House allowance.	Pay.	House allowance.	Pay.	House allowance.			
1	2		3		4		5	6	7
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.		
			[*Vide* page 123].					Glasgow University : A. M. I. C. E (Lond.) ; Member, Royal Sanitary Institute ; first class certificate in Sanitary Engineering from Royal Technical Institute, Glasgow ; Member, Asiatic Society, Bengal ; eight years' experiences in Roads, Buildings and Sanitary Engineering.	
Captain W. J. Berry.	...	...	4,613	...	9,600	1,145	15,358	M. B. E. ; Professional Associate of Surveyors' Institution ; Member, Royal Sanitary Institute.	Four years' experience of water-supply, sanitation and construction work in England as Agent for the Hilmanton Estate of the Rt. Hon. Lord Islington. Mobilised August 1914. Served as Garrison Engineer in Military Works Dept. from May 1916 to September 1919. Had charge of large

Captain A. Webster	...	..	..	...	2,827	618	3,445	Gold Medalist; Sanitary Engineering, Dundee Technical School; Sanitary Engineering experience in England and 3 years in charge, Sanitary Engineering works, Singapore; Lieut.; Military Works Department in charge, Nowshera water-supply scheme.
Mr. K. C. Banerjee	...	...	3,297	...	4,278	...	7,575	Passed Upper Subordinate, Sibpur College, 1903; Engineer in charge, Government Printing works; engaged on E. B. S. Ry.; 16 years in Engineering Department of Sanitary Engineer, Bengal (now Chief Engineer, P. H. D.). Promoted from temporary surveyor to sub-engineer and afterwards appointed Assistant Engineer in charge, Dacca Division.
Total	...	...	...	...	...	...	...	1,29,901

construction works in Imperial Delhi, Bombay and Deolali. Held rank of Capt. on release from service.

NOTE.—The total expenditure in salaries and allowances of the subordinate establishment of the Engineering Branch of the P. H. Dept. for the three years 1923 to 1926 was about Rs. 1,70,000.

Government Bills

The Bengal Stamp (Amendment) Bill, 1922.

Babu AMULYA DHONE ADDY: My amendment may be split up into 6 sub-items (*a*) to (*f*). I will take up the first two sub-items (*a*) and (*b*) and then take up (*c*) and (*d*) together. Then I will take up (*e*), and after that (*f*).

That in Schedule 1A, article 35—

(*a*) in the second column of clause (*a*)(*i*) for the words 'Bottomry Bond (No. 16)' the words 'Bond (No. 15)' be substituted,

(*b*) in the second column of clause (*a*)(*ii*) for the words 'Bottomry Bond (No. 16)' the words 'Bond (No. 15)' be substituted,

(*c*) clauses (*a*) (*iv*) and (*v*) be omitted,

(*d*) in clause (*a*) (*vi*) (*i*) in the first column for the words 'thirty years' the words 'ten years' be substituted, and (*ii*) in the second column for the words 'four times' in line 3 the word 'twice' be substituted.

(*e*) in clauses (*a*) (*viii*) in the second column the words 'three times' be omitted,

(*f*) in the second column after the first proviso, the following be added, namely,—

'Provided also that in the case of an agricultural lease in perpetuity the duty payable shall be as a conveyance for a consideration of one-tenth of the rents which would be paid or delivered in respect of the first fifty years of the lease.'

With regard to item (*a*), I beg to move that in the second clause (*a*) (*i*) for the words 'Bottomry Bond (No. 16)' the words 'Bond (No. 15)' be substituted, and (*b*) that in the second clause (*a*) (*ii*) for the words 'Bottomry Bond (No. 16)' the words 'Bond (No. 15)' be substituted.

It would appear that under the existing Act the word used is 'Bond.' In the Bill it has been substituted by the words 'Bottomry Bond.' What I beg to suggest is that the word 'Bottomry' should be omitted altogether, as this word is known to merchants alone, and is quite unintelligible to the public at large, especially to agriculturists, and my second ground is that under the existing Act there is no difference of duty between a Bottomry bond and a bond, but under the Bill, there is a difference. In the case of a Bottomry bond the rate is ½ per cent. all along, but in the case of a bond there is no increment up to Rs. 200, for which we are grateful to the Hon'ble Finance Member of the Government, and the increment is 25 per cent. up to Rs. 500 and after that it is 50 per cent. As in the case of a Bottomry bond, the object of this reduction in the case of a bond is to give relief to the poor. The Bengal Landholders

Association have suggested that the word 'Bottomry' should be omitted altogether. It may be said that it is an association of landholders of Bengal, but I beg to submit that this tax is to be paid not by landlords, but by tenants. With these remarks, I beg to submit this amendment for the acceptance of the House.

I reserve the right of moving the other amendments later on.

The DEPUTY-PRESIDENT (Babu Surendra Nath Ray): You must move all the amendments together.

Babu AMULYA DHONE ADDY: I move all these amendments, but request that they may be put to vote separately as they are quite distinct from one another.

"Sub-item (*c*): I move that clause (*a*) (*iv*) and (*v*) be omitted."

May I speak now, or after moving all these amendments?

The DEPUTY-PRESIDENT: You will have to move all the amendments together.

Babu AMULYA DHONE ADDY: Very well. Item (*d*) runs as follows:—

In clause (*a*) (*vi*) (*i*) in the first column for the words 'thirty years' the words 'ten years' be substituted; and (*ii*) in the second column for the words 'four times' in line 3 the word 'twice' be substituted,

(*c*) in clause (*a*) (*viii*) in the second column the words 'three times' be omitted;

(*f*) in the second column, after the first proviso, the following be added, namely,—

'Provided also that in the case of an agricultural lease in perpetuity the duty payable shall be as a conveyance for a consideration of one-tenth of the rents which would be paid or delivered in respect of the first fifty years of the lease."

With reference to this point, I would draw attention to the provisions of the present Act, *viz.*, "Where the lease purports to be for a term in excess of three years, the same duty as a conveyance for a consideration equal to the amount of value of the average annual rent reserved." So it appears that under the present Act, the stamp duty has been fixed equal to the amount of annual rent paid. If there be a lease for 10 years or more, or even if there be a lease for 999 years, the duty has been fixed for a consideration equal to one year's rent. In the Bill there is a gradation of the stamp duty. Where the lease purports to be for a term exceeding 10 years, but not exceeding twenty years, the same duty as a conveyance for a consideration equal to twice the amount or value of the average

annual rent reserved. And for a lease for a term exceeding 20 years, but not exceeding 30 years, the same duty as a conveyance for a consideration equal to three times the amount or value of the average annual rent reserved. For a lease for a term of 30 years, but not exceeding 100 years, the same duty as a conveyance for a consideration equal to four times the amount or value of the average annual rent reserved.

Now let us see what the increment is. In the case of a lease for 10 to 20 years, it is twice the annual amount, practically it is 300 per cent. of the duty on the conveyance at the existing rate. Similarly, for a lease of 20 or 30 years, it is 450 per cent. of the duty on the conveyance under the existing Act, and for a lease of 30 to 100 years, it is 600 per cent. of the duty on the conveyance under the present Act. We were under the impression that the rates of duty have been increased generally by 50 per cent., in certain cases by 100 per cent., and in others by 25 per cent., but it appears that in this particular case it has been increased by 50 to 500 per cent. Then we find that even in the report of the Expert Committee, in paragraph 5, it is stated that the only article from which an appreciable increase of revenue may be expected is article 35. Here the committee have followed the English law which provides a graduated scale of duty with regard to a term of years. So it appears that on the recommendation of the Expert Committee, the Government has fixed a graduated scale in accordance with the English law. I do not know the English law, but if I may be allowed to say that the people of England chiefly depend on trade, commerce and manufacture, whilst the people of Bengal chiefly depend on agriculture. The people of England can afford to pay these heavy taxes, but the people of Bengal are generally poor and cannot afford to pay such heavy taxes with an increase of 50 to 500 per cent. Further, it appears from the report of the Expert Committee that they estimate to realise over a lakh and a half from this in addition to 50 per cent. increase. I admit that the revenue should be increased, and that is why I have made the suggestion, which will appear to be a very modest one. I have suggested that instead of increasing 3, 4, 5 or 6 times, in the case of a lease for a term exceeding 10 years but not more than 100 years it may be twice the average rent instead of 4 times as suggested in the Bill, so it will give, Sir, at least one lakh of rupees or even Rs. 50,000 in addition to the revenue by raising the rate of duty by 50 per cent.

It may also be said that if we reduce the revenue by Rs. 50,000, our surplus will be reduced accordingly. But for the sake of Rs. 50,000 or a lakh of rupees, is it advisable to raise the duty on leases for long periods, by such high rates? If that be the case, I would suggest further retrenchment. Is it not a fact that the charge for the maintenance of the police in Bengal in 1918-19 was Rs. 1,32 lakhs and it has been proposed in the Budget to increase it to Rs. 189 lakhs? The total expenditure in the year 1918-19 was Rs. 744 lakhs and it has been proposed to increase it to

Rs. 1,004 lakhs now, so it appears that under the Budget we are going to increase the expenditure by about Rs. 2½ crores. Cannot we make a further retrenchment of Rs. 50,000 or Rs. 1,00,000? Government is responsible for this heavy expenditure and for this deficit. Had it not been for the fact that the increased cost of the pay and allowances of the members of the executive and judicial services has accounted for many lakhs of rupees, the case would have been different. I draw attention to the old history of the rate of duty on leases.

It appears that under Regulation XVI of 1864, annas eight was the only rate of duty for a lease, not only for a short lease, but also for a lease for a long period. Under Act I of 1879, it was increased by 100 per cent., and it was equal to one year's rent even for a permanent lease. There is another point which would appear to be a source of the greatest hardship on the people at large especially to the poor people of Bengal.

Now, I beg to move that in clause (*a*) (*viii*) in the second column the words 'three times' be omitted. This has reference to a lease for a definite period. Under the law in force where the lease does not purport to be for any definite period, it is the same duty as a conveyance for a consideration equal to the amount or value of the average annual rent; but under the Bill, it is proposed that it should be the same duty as a conveyance for a consideration equal to three times the annual rent. *Prima facie* it is going to be increased 300 per cent., but as the rate of duty on conveyance has already been increased by 50 per cent., so really the rate of duty on leases for a definite period is going to be increased to 450 per cent. What is the lease for an indefinite period? It is the lease of a house or agricultural land from year to year, and in the case of shops in a municipality, generally, it is from month to month. This is not a definite period; it may be 5 months, or 5 years and in the case of a tenancy from month to month, the landlord has the right to eject a tenant after fifteen days' notice, and therefore, this tenancy is generally for a short period. Would we be justified in increasing the rate of duty on such leases to 450 per cent. ? Then it may be said that as regards the poor agriculturists there is an exception. I admit that there is an exemption, but there are so many restrictions embodied in that exemption that this exemption can not really be applied. It runs as follows:—

> Lease, executed in the case of a cultivator and for the purposes of cultivating (including a lease of trees for the production of food or drink), without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.

Let us see what these restrictions are. First of all, it should be in the case of a cultivator. It should be for the purpose of cultivation and not for any other purpose. Then, there should be no premium. If one rupee is paid as *salami* to the landlord, then it does not come under this exemption, and shall be liable to pay the proper stamp duty. Then, it should be for a definite period, and, therefore, it cannot apply in cases of

lease for an indefinite period and even for a definite period it cannot be more than a year; and if you take into consideration the fact that the amount of annual rent must not exceed Rs. 100 then it appears that though Government has been pleased to make an exception to this rule, there are so many restrictions that it is difficult for a cultivator to take advantage of this exemption.

I do therefore move the last sub-item (*f*)—

(*f*) in the second column after the first proviso, the following be added, namely,—

'Provided also that in the case of an agricultural lease in perpetuity the duty payable shall be as a conveyance for a consideration of one-tenth of the rents which would be paid or delivered in respect of the first fifty years of the lease.'

My object, Sir, is to develop agriculture, and unless and until we develop agriculture in Bengal, we cannot expect to have the prices of food-grains reduced. We have the Sunderbans in the districts of 24-Parganas, Bakarganj and Khulna, which the Government have been pleased to let out. The landlords have reclaimed these lands, and they have raised embankments and cut off the jungle, but the tenants do not like to take leases of these lands unless the leases are permanent. It is generally the practice that in the case of lands in the Sunderbans permanent leases are granted: that is the reason why I have suggested that the duty on such conveyances should be for a consideration of one-tenth of the rents which may be paid or delivered in respect of the first 50 years of the lease, instead of one-sixth as suggested in the Bill. So I suggest it should be less than that in the case of ordinary leases in perpetuity; but, Sir, it will not be an exception but a proviso to the proposed rule.

With these remarks, I beg to submit my amendment for the consideration of the Council and I hope and trust that you will allow the clauses to be separately put because I understand that some of the members of the Council are agreeable to accept some of these items although they do not approve of all of them.

SHAH SYED EMDADUL HAQ spoke in Bengali. His speech, translated, is as follows:—

I move that in Schedule 1A, article 35, in Exemption (*a*), after the words 'including a lease of trees for the production of food and drink' the words 'and also a lease of a house or tank' be inserted; and for the words 'one year' the words 'nine years' be inserted.

Having regard to the attitude of the House, I have withdrawn the second portion of my motion, *viz.*, I have withdarwn the words "nine years" which I wanted to be substituted for the words "one year." I move, however, only the first portion of my motion. In so doing, I have altered this in consultation with the Secretary to the Bengal Legislative

Council. I have every reason to hope that the amended portion of my motion has been submitted to the Deputy-President and the Member in charge. I therefore hope that this motion be urged by the Government for its acceptance in the amended form: failing this, I do not like to accept the amended form even, but would move it in the form as originally standing in my name.

Sir, this motion is very simple in its nature in both the forms. It has been moved for the purpose of amplifying and elucidating its exemption clause only. What I mean to say is this, that on account of the difference of opinion amongst the sub-registrars, the poor cultivators, for whose benefit this motion is moved, should not at any rate be made to suffer loss. For instance, if any tank, well or a small house falls within the agricultural land, certain sub-registrars do not exempt stamp fees for the said tank, well or house and thus puts the poor raiyat into trouble and renders him liable to pay additional stamp fees. Actuated by the desire to save these helpless cultivators from the peril of this additional stamp fee, I move my amendment in this Council, and hope that it will be accepted in its modified form.

The following amendment, standing in the name of Maulvi Hamid-ud-din Khan, was, in the absence of the member, deemed to be withdrawn:—

That in Schedule IA, article 35 (*a*), entries (*i*) and (*ii*) in the first and second columns be omitted, and that at the end of that clause the following be added:—

> 'The rates of duty on leases of the nature referred to in this clause where the lease purports to be for a term of less than one year and where the lease purports to be for a term of not less than one year but not more than five years shall be the rates specified in Schedule I in respect of such leases.'

Rai MAHENDRA CHANDRA MITRA Bahadur: I must admit that the description of the lease has been very nicely and artistically drawn. Experience has shown that difficulties were felt in the mufassal in classifying the leases as a rule. Experience has also shown that many leases are executed for a period of 99 years as in the case of leasing out lands for the mills. For such a classification of leases, I must congratulate the framers of the Bill. As has been pointed out by the learned mover, the provisions of the English law have been applied here, both as regards the classification of the leases and also in some parts with regard to the levying of duties. There are, however, some defects which ought to be brought to the notice of the Council. In my humble opinion, the suggestion as regards the levying of the fee as given in the Bill appears to be an artistic one. I think, Sir, that if the Bill comes into operation, Government will be in a position to realise a good deal of money. This is one of the sources which can be tapped for the purpose of realising

revenue and the question appears to be whether the amounts specified in the second column of the Bill are adequate. I will take clause (*viii*) of the article, where the lease does not purport to be for any definite term. As a rule, in the mufassal, many leases are for an indefinite period and there are a few leases for a definite period. The old Act and the new Act in column 2 specify the duty, namely, the stamp duty to be the same, as a conveyance (No. 23) for the consideration equal to the amount or value of the average annual rent. I think, Sir, that if this duty, as specified, had been adopted in the current Act, it would have been satisfactory. But the framers of the Bill and the Select Committee, in their desire of getting more money in the shape of extra duty, have thought it necessary to raise the duty to an extraordinarily high figure. To that, I submit, there ought to be the stoutest objection. I am not dealing with agricultural leases. But in dealing with ordinary leases for an indefinite period, it will be a matter for consideration if a high charge is to be retained. Hence I ask the Member in charge of the Bill to consider whether the objection is a reasonable one or not. Then with regard to clause (*vii*), where the lease purports to be for a term exceeding 100 years the words "and in perpetuity" have been introduced in the present Act. This seems to be very nicely and artistically put, keeping an eye on the situation of affairs. Then we find that in the second column the duty in the old Act, where the lease purports to be in perpetuity, is the same duty as a conveyance for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease. We notice, therefore, that there has been a departure form the old Act, as we find in the Bill that the duty is the same as a conveyance for a consideration equal to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first 50 years of the lease. It appears, therefore, that consideration has been shown to this provision by the framers of the Bill. I submit that the framers of the Bill should have taken into account the amount which is to be found in the second column of clause (*vii*) as well as that to be found in the second column of the lease for any definite period. But they have reduced to a certain extent the amount with regard to the leases exceeding 100 years or in perpetuity. If the same principle had been adopted with regard to clause (*viii*), it would have been satisfactory. So you have noticed that the amount with regard to clause (*vii*) will be reduced, whereas in dealing with the other form of leases, you increase it extraordinarily. That is the reason why I compare the two forms of the leases and I contend that some injustice has been done to leases for any definite term. Having compared the two parts of the several forms of the leases, my contention is that there ought to be a reduction in the stamp duty as has been suggested in the amendment. I do not think that Government will be put to any difficulty or [illegible] nce if the suggestion which has been made by the learned mover be accepted.

Now, with regard to agricultural leases, one word more and I am done. There are many forms of agricultural leases. We notice, however, that in the case of agricultural leases exception is made in the case of those leases for lands taken for purely agricultural purposes. But what advantage is there in saying that the lease is only for a year and I do not know what good will come out of it. Anyone who has experience of agricultural leases will agree with me that there will be no advantage if the period of the lease is limited only to one year. So, as a whole, if the description of instruments be retained as it is, the question for the consideration of the House is whether the duty specified therein ought to be retained or not. With these few words, I fully support the view which the learned mover has put before the Council.

The Hon'ble Mr. J. H. KERR: The main criticism on this item is based on the amounts of enhancement calculated in individual cases. It is, of course, perfectly true that we are making very considerable alterations in the existing law relating to leases, but our justification is that the existing law is thoroughly unsatisfactory. There is no attempt at any scientific graduation of leases according to their value, although it is obvious that leases, like conveyances, should be graduated in respect of the duty payable to the State. This defect in the Indian law has long been notorious, and it has been brought out into greater prominence by the development of industrial activities in recent years. Recently, a considerable number of leases, specially mining leases for 999 years, have been presented for registration and the rate of duty is 1 per cent. on a year's rent, whereas if they were leases in perpetuity it would be 10 per cent.; in England, it is 12 per cent. There is no reason whatever why Government should be content with a duty of one per cent. on a year's rent on valuable mining leases which are practically leases in perpetuity. As we intend to raise the revenue we are surely justified in putting on leases of that kind a duty which the industry can very well bear, and in this matter we have the support of the Expert Committee which contained people who, as I have said, were highly competent to speak of the effect of this measure on trade and industry in Calcutta and Bengal.

As to Mr. Addy's remarks about Bottomry Bonds, the subject was explained at length yesterday. The reason why we have put in the reference to Bottomry Bonds is because we want an increase of 50 per cent. We believe that these leases can bear this duty and we have therefore classed these leases as Bottomry Bonds. The words "Bottomry Bond" in this Bill, as Mr. Spry explained very clearly yesterday, simply mean that we are making an increase of 50 per cent. There is no mystery about it nor any intention of puzzling the House. We are not, therefore, prepared to make any considerable amendments in the provisions of the Bill as they stand. We think that in the matter of cultivating leases the exemption gives sufficient protection, subject to a modification which I shall suggest hereafter: and I think there is

nothing to be puzzled about in regard to this exemption. When the average annual rent does not exceed Rs. 100, the document is exempted from stamp duty altogether. I cannot understand how, having heard this point fully explained in the Select Committee, Mr. Addy comes here and says that the exemption is so puzzling that nobody can understand it ("Hear, hear"). We are, however, prepared to accept Mr. Addy's proposal (*f*) about the proviso in the case of agricultural leases. We are prepared to concede that the consideration in the case of leases for a term exceeding one hundred years or in perpetuity should be one-tenth of the rent which will be paid or delivered in respect of the first 50 years of the lease. But we propose to word it rather differently.

It will read as follows:—

> "The same duty as a conveyance (No. 23) for a consideration equal in the case of a lease granted solely for agricultural purposes to one-tenth and in any other case to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease."

Then, with regard to Shah Syed Emdadul Haq's amendment about including the leases which appertain to houses and tanks, we are prepared to accept that amendment also. It is on all fours with an amendment which the Committee on the Bengal Tenancy Act is considering at the present moment. The Committee propose to provide that an occupancy raiyat shall have occupancy rights in his homestead land. As the Council may know, the law on the subject is not particularly clear and we are going to do our best to make the law clear. For that purpose we are prepared to provide that agricultural leases including a mention of houses and tanks should be put on the same footing as cultivating leases for the purpose of this exemption. We propose to do it by adding to exemption A the following explanation:—

> "In this exemption a lease for the purpose of cultivation shall include a lease of lands for cultivation together with a homestead or tank."

This will, I think, fully meet Shah Syed Emdadul Haq's point.

We cannot make further alterations in the article, as we believe that people executing leases can ordinarily afford to pay a higher duty. We are prepared to make the two concessions which I have already mentioned: but we are unable to go further in the direction suggested in these amendments.

Babu AMULYA DHONE ADDY: I am grateful——

The DEPUTY-PRESIDENT: You are not entitled to a reply.

Babu AMULYA DHONE ADDY: I am grateful to the Hon'ble Member in charge for accepting my proposal regarding the proviso.

But at the same time I appeal to him to take into his favourable consideration my amendment regarding leases for an indefinite period. It is going to be raised three times the existing rate.

On the Deputy-President proceeding to put the question before the House, the Hon'ble Mr. Kerr rose to a point of order and said that he was prepared to accept the amendment to the proviso in the form he had read out to the Council.

The DEPUTY-PRESIDENT: That will of course be moved as a separate amendment by the Hon'ble Mr. Kerr.

Babu AMULYA DHONE ADDY: May I ask you, Sir, to put the several items of my amendment separately, as I understand that some of my friends will support strongly some of them although they disapprove of the others?

The Hon'ble Mr. J. H. KERR: It would be extremely inconvenient if the items of the amendment are put separately.

The following motion of Babu Amulya Dhone Addy, as amended, by the Hon'ble Mr. Kerr, was then put and agreed to:—

That in article 35 after the words "consideration equal" in the item in the second column opposite item (*a*) (*vii*) the following be inserted, namely,—

"in the case of a lease granted solely for agricultural purposes to one-tenth and in any other case."

The rest of the motion was put and lost.

SHAH SYED EMDADUL HAQ spoke in Bengali. His speech, translated, is as follows:—

As the Hon'ble Member in charge accepts my motion in its amended form, I am grateful, and withdraw my original form as printed in the List of Business.

The following amendment of the Hon'ble Mr. Kerr in place of the amendment moved by Shah Syed Emdadul Haq was then put and agreed to:—

"That to exemption (*a*) to article 35 of Schedule IA, the following be added, namely,—

Explanation.—In this exemption a lease for the purposes of cultivation shall include a lease of lands for cultivation, together with a homestead or tank."

The DEPUTY-PRESIDENT: The question I now have to put is that article 35, as amended, stand part of the Bill.

The motion was then put and agreed to.

Article 38.

The DEPUTY-PRESIDENT: The question I now have to put is that article 38 stand part of the Bill.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in Schedule 1A, article 38, for the words 'Fifteen rupees' in the second column, the words 'Twelve rupees eight annas' be substituted.

I need not discuss the matter as I understand the Hon'ble Mr. Kerr is going to accept it.

The Hon'ble Mr. J. H. KERR: This matter is covered by article 22 in regard to composition-bonds, the amendment to which was accepted yesterday, and we are prepared to accept this amendment also.

The motion was put and agreed to.

The DEPUTY-PRESIDENT: The question is that article 38, as amended, stand part of the Bill.

The motion was then put and agreed to.

Article 39.

The DEPUTY-PRESIDENT: The question I now have to put is that article 39 stand part of the Bill.

Mr. TARIT BHUSAN ROY: I must confess that I am not disposed to lead another funeral procession to-day, and so I would with a good grace ask for leave to withdraw my amendment.

Rai UPENDRA LAL RAY Bahadur: In view of the fact that similar amendments in regard to bonds and conveyances were lost yesterday, I beg leave to withdraw my amendment.

The following amendment was then, by leave of the Council, withdrawn:—

Mr. TARIT BHUSAN ROY and Rai UPENDRA LAL RAY Bahadur: That in Schedule IA, for article 39, the following be substituted, namely,—

'39. Memorandum of Association of a Company—

(*a*) if accompanied by articles of Association under section 17 of the Indian Companies Act, 1913, where the capital of the company does not exceed rupees one lakh ...	Fifteen rupees
when it exceeds rupees one lakh ...	Thirty rupees.
(*b*) if not so accompanied when the capital of the company does not exceed rupees one lakh ...	Forty rupees.
when it exceeds rupees one lakh ...	Eighty rupees.'

The following amendment was, in the absence of the member, deemed to be withdrawn :—

Babu INDU BHUSHAN DUTTA being absent, the following motion standing in his name was deemed to be withdrawn :—

That in Schedule 1A, article 39, for all words before the heading 'Exemption' in the first column and the entries in the second column the following be substituted, namely :—

'39. Memorandum of Association of a Company—

(i) With a capital of one lakh and under—		
(*a*) if accompanied by articles of Association under section 17 of the Indian Companies Act, 1913	..	Fifteen rupees.
(*b*) if not so accompanied	...	Forty rupees.
(ii) In any other case—		
(*a*) if accompanied by articles of Association under section 17 of the Indian Companies Act, 1913	..	Twenty-two rupees eight annas.
(*b*) if not so accompanied.	...	Sixty rupees.'

Rai MAHENDRA CHANDRA MITRA Bahadur I move that in Schedule 1A, article 39(*a*), for the words 'Thirty rupees' in the second column, the words 'Twenty rupees' be substituted.

Under the present Act, the duty is Rs. 15 on a memorandum of association of a company, if accompanied by articles of association under section 37 of the Indian Companies Act, and Rs. 40 if not so accompanied. Now it has been increased a great deal in the Bill. Of course, in one sense it may be argued that we are dealing with memoranda of associations of companies, and consequently we ought not to press for a reduction of the duty, but in another sense, it may be contended that if we have an eye on the duty which was laid down in the Act in operation, then we find that there seems to be considerable increase, and I hope the Hon'ble Member will be pleased to consider whether such a large increase ought to find a place in the Act. I cannot make any other special point in favour of my contention. I was trying to get hold of an argument which may be convincing, but as I have not been able to do that, I would simply say whether it would not be possible for the Hon'ble Member to reduce this somewhat extraordinary increase in the amount of the duty.

I beg also to move that in Schedule 1A, article 39(*b*), for the words 'Eighty rupees' in the second column, the words 'Sixty rupees' be substituted.

I do not want to make a speech on it. I simply move it.

SECRETARY to GOVERNMENT, FINANCE DEPARTMENT (Mr. H. E. Spry): I understand that we have to deal with amendments Nos. 87 and 88 moved by the Rai Bahadur. The effect of the first amendment is that in Schedule 1A, article 39 (*a*), instead of Rs. 30 there would be substituted Rs. 20; and the effect of the second amendment is that in the same Schedule, in article 39(*b*), instead of Rs. 80, Rs. 60 would be substituted. I oppose these amendments. The Rai Bahadur was somewhat apologetic in moving these amendments and said he had tried hard to find reasonable arguments in support of them. I suggest that he has not been successful in his attempt. The point made by the Hon'ble Mr. Kerr yesterday is, I think, a sufficient answer, namely, that if a company cannot afford to pay to Government the duty proposed, it is undesirable that such a company should be started at all. This appears to be a matter in which it is quite legitimate for Government to take additional revenue.

The motions were then put and lost.

The DEPUTY-PRESIDENT: The question is that article 39 stand part of the Bill.

The motion was then put and agreed to.

Article 40.

The DEPUTY-PRESIDENT: The question I now have to put is that article 40 stand part of the Bill.

Maulvi FAZLAL KARIM: I move that in Schedule 1A, article 40(*a*) for the words 'equal to the amount' in the second column, the words 'exceeding five hundred rupees' be substituted.

What I mean is this that the rate of stamp for mortgage-deeds up to Rs. 500, when possession of the property is given by the mortgagor, be not increased and the rate should remain as at present. It is for the poor raiyats that I appeal to the members to consider this matter. For want of good crops and for other unavoidable reasons the raiyats always fall in debt and they generally mortgage their lands in usufructuary form to save their property from being sold away. If the rate be increased it will be a great hardship upon the poor tenants. So with these few words, I move this amendment.

The Hon'ble Mr. J. H. KERR: I will read out to the House the article if it is amended in the manner proposed. The present article says—"The same duty as a conveyance (No. 23) for a consideration equal to the amount secured by such deed." The article if amended as proposed will read as follows—"The same duty as a conveyance (No. 23) for a consideration exceeding five hundred rupees secured by such deed." It is obvious that the amendment is not sense, and I therefore oppose it.

The motion was then put and lost.

The following amendment, standing in the name of Rai Mahendra Chandra Mitra Bahadur was, by leave of the Council, withdrawn:—

That in Schedule 1A, article 40(*c*) for the words 'Twelve annas' in the second column the words 'Ten annas' be substituted.

The DEPUTY-PRESIDENT: The question is that article 40 stand part of the Bill.

The motion was put and agreed to.

Article 41.

The DEPUTY-PRESIDENT: The question I now have to put is that article 41 stand part of the Bill.

The following amendment was, in the absence of the member, deemed to be withdrawn:—

Rai HARENDRANATH CHAUDHURI: That in Schedule 1A, article 41 be omitted.

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to withdraw the following amendment:—

That in Schedule 1A, article 41(*a*), for the words 'One and a half annas' in the second column, the words 'One anna' be substituted."

Rai MAHENDRA CHANDRA MITRA Bahadur: I wish to bring to the notice of the Council that article 41 deals with the mortgage of a crop, and clause (*b*) deals with the subject when the loan is repayable more than 3 months, but not more than 18 months from the date of the deed. My submission is that the greatest consideration ought to be shown in such cases and what I propose is that in Schedule 1A, article 41(*b*) for the words, 'Three annas' in the second column, the words 'Two annas' be substituted. Of course we know very well the condition of the raiyats and consequently, I am encouraged to plead for them and ask the Hon'ble Member to consider whether the suggestion I have made is a reasonable one or not. I am pleading here the cause of the poor people, who are obliged to mortgage their properties for such purpose such as daughter's marriage, etc. The Legislature ought to show some consideration to them. To increase the duty in the way proposed in the Bill is opposed to the spirit of the Stamp Act.

The Hon'ble Mr. J. H. KERR: This clause provides that for every sum secured not exceeding Rs. 100, the duty should be three annas. The Rai Bahadur proposes that it should be two annas. We have proposed three annas because we have ascertained that it is mainly on commercial crops like indigo, tea, etc., that those mortgages are executed. We are advised that they can very well stand this small increase which it is proposed to levy. I am afraid, therefore, that I cannot accept the amendment.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that article 41 stand part of the Bill.

The motion was put and agreed to.

Articles 42-44.

The DEPUTY-PRESIDENT: The question I now have to put is that articles 42 to 44 stand part of the Bill.

The motion was put and agreed to.

Article 45.

The DEPUTY-PRESIDENT: The question I now have to put is that article 45 stand part of the Bill.

The following amendment, standing in the name of Shah Syed Emdadul Haq, was, by leave of the Council, withdrawn:—

In Schedule 1A, article 45, in the Note for the words 'largest share' the words 'smallest share' be substituted.

The DEPUTY-PRESIDENT: The question is that article 45 stand part of the Bill.

The motion was put and agreed to.

Article 46.

The DEPUTY-PRESIDENT: The question I now have to put is that article 46 stand part of the Bill.

Mr. TARIT BHUSAN ROY: I move that in Schedule 1A, article 46, for paragraph A and the entries opposite in the second column, the following be substituted, namely,—

'A—Instrument of—

(1) when the capital of the partnership does not exceed Rs. 500	...	Four rupees eight annas.
(2) in any other case	...	Fifteen rupees.'

I know there is not the smallest possible chance of this amendment surviving the epidemic. I do not think it necessary for me to make a speech in commending the amendment to the acceptance of this House This is a very small matter and I would like to appeal to the Hon'ble the Finance Member as has been done by several other members before me with some success. I plead only for small partnerships with a capital not exceeding Rs. 500. The original stamp duty was Rs. 2-8-0, it is now proposed to increase it to Rs. 5 in the Bill. So this is an increase of 100 per cent. so far as small partnerships are concerned,

whereas in any other case the increase is from Rs. 10 to Rs. 15. I would submit that in the case of these small partnerships with a capital of Rs. 500 only, the proposed enhancement should be 50 per cent. instead of 100 per cent.

Rai UPENDRA LAL RAY Bahadur: There are not good many documents for partnerships executed and the increase under this head will not be very great. There has been an all-round increase of 100 per cent. and not, as Babu Tarit Bhusan Roy said, up to Rs. 500 and ' in other cases ' 50 per cent. Our amendment is to reduce in one case by annas eight only up to Rs. 500 and ' in any other case ' to Rs. 15 instead of Rs. 20. Our proposal is a 50 per cent. increase and we have not touched the question of dissolution of partnership which comes under article 46B. I hope the Hon'ble Member in charge will kindly accept this suggestion of ours.

The following amendments were, in the absence of the members, deemed to be withdrawn:—

Rai RADHA CHARAN PAL Bahadur: In Schedule 1A, article 46A(*a*) for the words and figures ' Rs. 500 ' in the first column, the words and figures ' Rs. 5,000 ' be substituted.

Babu INDU BHUSHAN DUTTA: That in Schedule 1A, article 46, for the three entries in the second column, the following be substituted, namely,—

' Three rupees twelve annas
Fifteen rupees.
Seven rupees eight annas..'

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in Schedule 1A, article 46A (*a*) for the words 'Five rupees' in the second column, the words 'Two rupees eight annas be substituted and that in Schedule 1A, article 46A (*b*), for the words 'Twenty rupees'in the second column, the words 'Ten rupees' be substituted.

This article under the heading "Partnership" is a provision embodying a concession in favour of petty partners. This concession was shown by the framers of the present Act and I expect the same concession to be shown by the framers of the Bill. Now they have proposed that in the case of instruments of partnership, where the capital does not exceed Rs 500 the fee ought to be Rs. 5. I contend that some concession ought to be shown to such petty partners. If such an indulgence is not shown, then I submit that these transactions will be at an end, and hence I ask the Hon'ble Member to consider whether he is not in a position to retain the old duty of Rs. 2-8-0.

Regarding sub-clause (*b*) "in any other case," the present rate is Rs. 10. It will be noticed that it has been increased a great deal, namely, to Rs. 20. I submit that Rs. 10 is a fair rate. I would not have

troubled the Council with the suggested amendments had it not been for one single fact that we are dealing with petty partnerships and if we increase the rate, such transactions will cease to exist. With these words, I place the amendments before the House and the Hon'ble Member.

Babu FANINDRALAL DE: I move that in clause 46A (*b*), for the words 'Twenty rupees,' in the second column, the words 'fifteen rupees' be substituted.

I move this amendment to the clause 16A (*b*), Schedule 1A, simply with a desire to be consistent. In a majority of the cases, the increments are 50 per cent. and I believe no special case has been made out here to have cent. per cent. increase. It may discourage working in partnership, which is certainly not desirable. The increase from Rs. 2-8-0 to Rs. 5 may not appear much, but that from Rs. 10 to Rs. 20, although proportional, seems to be prohibitive. I wish therefore that the proper duty be Rs. 15, instead of Rs. 20.

Mr. H. E. SPRY: I am afraid we are unable to accede to the appeal that has been made by various members for a reduction of the duty contained in the Bill. We have been told that the object of these amendments is primarily to ensure that excessive duty is not realised in the case of small partnerships. The slight experience I have had of partnerships, large or small, between Indian merchants in Calcutta, has given me the impression that there is seldom any document at all to show who the partners are. It is a matter of common knowledge that in the majority of cases there is no instrument of partnership whatever. What I would suggest to the Rai Bahadur is that his picture of partners in small concerns being harassed by an increase of duty of Rs. 2-8-0 is very much overdrawn. I believe that there are no instruments of partnership in such cases as a general rule, and even if there were, I should be prepared to submit to the House that an increase of Rs. 2-8-0 is a negligible factor in the circumstances. I oppose all these amendments.

The motions were then put and lost.

The DEPUTY-PRESIDENT: The question is that article 46 stand part of the Bill.

The motion was put and agreed to.

Article 48.

The DEPUTY-PRESIDENT: The question I now have to put is that article 48 stand part of the Bill.

The following amendment, standing in the name of Babu Surendra Narayan Sinha, was, in the absence of the member, deemed to be withdrawn:—

That in article 48 of Schedule 1A—

(*i*) for the words 'twelve annas' in the second column the words eight annas,'

(*ii*) for the words 'one rupee' in the second column opposite clause (*b*) the words 'eight annas,'

(*iii*) for the words 'one rupee eight annas' in the second column the words 'one rupee,'

(*iv*) for the words 'seven rupees eight annas' in the second column the words 'five rupees,'

(*v*) for the words 'fifteen rupees' in the second column the words 'ten rupees,'

(*vi*) for the words 'one rupee eight annas for each person authorised' in the second column the words 'one rupee for each person authorised,' be substituted.

The following amendment, standing in the names of Mr. Tarit Bhusan Roy and Rai Upendra Lal Ray Bahadur, was, by leave of the Council, withdrawn:—

That in Schedule 1A, article 48, in the second column for the first four entries, the following be substituted, respectively, namely,—

'Eight annas.

Twelve annas.

One rupee.

Two rupees.'

The following amendment, standing in the name of Babu Indu Bhushan Dutta, was, in the absence of the member, deemed to be withdrawn:—

That in Schedule 1A, article 48, for the first three entries in the second column, the following be substituted, namely,

'Eight annas.

Eight annas.

One rupee.'

The following amendment, standing in the name of Babu Fanindra-lal De, was, by leave of the Council, withdrawn:—

That in Schedule 1A, article 48(*b*), for the words 'One rupee' in the second column, the words 'Twelve annas' be substituted.

The DEPUTY-PRESIDENT: The question is that article 48 stand part of the Bill.

The motion was put and agreed to.

Articles 50 and 51.

The DEPUTY-PRESIDENT: The question I now have to put is that articles 50 and 51 stand part of the Bill.

The motion was put and agreed to.

Article 54.

The DEPUTY-PRESIDENT: The question I now have to put is that article 54 stand part of the Bill.

Rai RADHA CHARAN PAL Bahadur: I move that in Schedule 1A, article 54 (*b*), for the words ' fifteen rupees ' in the second column, the words ' ten rupees ' be substituted.

When the duty on the mortgage-instrument has been enhanced, it is rather hard to make the mortgagee pay the enhanced duty again when re-conveying the property and it will be noted that in many cases the mortgagee re-borrows from another person and a further mortgage is effected. It is, as we say in Bengali, like *shankhar karat*, that is to say saws used for cutting conch-shells cut both ways up and down. Therefore I think that the existing duty may be maintained having regard to the fact that the duty is already heavy.

The Hon'ble Mr. J. H. KERR: The Rai Bahadur does not take exception to the first item but to the second item of this article—item (*b*). That item has been raised to 15 rupees correspondingly with article (*a*). Article (*a*) imposes a duty of 15 rupees, and I would suggest that it is only reasonable to enhance the rate in article (*b*) to that extent.

The motion was put and lost.

The DEPUTY-PRESIDENT: The question is that article 54 stand part of the Bill.

The motion was put and agreed to.

Articles 55 and 56.

The DEPUTY-PRESIDENT: The question I now have to put is that articles 55 and 56 stand part of the Bill.

The motion was put and agreed to.

Article 57.

The DEPUTY-PRESIDENT: The question I now have to put is that article 57 stand part of the Bill.

The following amendment was, in the absence of the member, deemed to be withdrawn:—

Rai HARENDRANATH CHAUDHURI: That in Schedule 1A, article 57 (*a*), for the words ' does not exceed Rs. 1,000 ' the words ' does not exceed Rs. 5,000 ' be substituted.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in Schedule IA, article 57 (*b*), for the words 'seven rupees eight annas' in the second column, the words 'six rupees four annas' be substituted.

This is in accordance with the submission which I have made to the Council since yesterday. If my standard is not accepted, it may be cut down. But once more I say that when we look to the present Act, we find that the provisions which have been laid down are to the following effect—

"When the amount secured does not exceed Rs. 1,000 the same duty as a bond, in any other case...Rs. 5."

So dealing with security-bond or mortgage-deed, my humble submission to the Council is that it should be prepared to take the suggestion which I have given. The Hon'ble Member in charge may consider the point which has been raised, but I greatly doubt whether he will accept my suggestion because the ball is rolling and it is very difficult to stop the motion.

The following amendment was, in the absence of the member, deemed to be withdrawn:—

Babu INDU BHUSHAN DUTTA: That in Schedule IA, article 57, the same rate as in the case of amendment No. 50 be substituted in the second column.

The Hon'ble Mr. J. H. KERR: I can assure the Rai Bahadur that in opposing his amendment, I am not acting in a spirit of wicked obstinacy but owing to the inconsistency which would arise if his proposal were accepted. Yesterday the Council passed the article relating to bonds which provides a sliding scale, *viz.*, Rs. 6-12-0 for bonds between Rs. 800 and Rs. 900 and Rs. 7-8-0 from Rs. 900 to Rs. 1,000. If this amendment were accepted, the duty on bonds exceeding Rs. 1,000 would be considerably less than on bonds of the value of Rs. 800 or Rs. 900. This, Sir, is a result on which the Council could hardly look with pride and pleasure. I therefore oppose the amendment.

The amendment of Rai Mahendra Chandra Mitra Bahadur was put and lost.

The DEPUTY-PRESIDENT: The question is that article 57 stand part of the Bill.

The motion was put and agreed to.

Article 58.

The following amendment was, in the absence of the member, deemed to be withdrawn:—

Babu INDU BHUSHAN DUTTA: That in Schedule IA, article 58A and B, for the words and figures 'Bottomry Bond (No. 16)' in the two

places where they occur in the second column, the words and figures 'Bond (No. 15)' be substituted.

The DEPUTY-PRESIDENT: The question I now have to put is that article 58 stand part of the Bill.

The motion was put and agreed to.

Article 59.

The DEPUTY-PRESIDENT: The question I now have to put is that article 59 stand part of the Bill.

Babu AMULYA DHONE ADDY: I move that in Schedule 1A, article 59, for the words, 'one and a half times' in the second column the words 'the same duty as' be substituted.

I will first of all explain to you the rate of duty under the Act of 1899, and afterwards under the Act of 1910, and then under the present Act in force. It appears, however, that under the Act of 1899, the rate of duty was one-fourth of the duty payable on a conveyance for a consideration equal to the nominal amount of the shares specified in the warrant. But, Sir, in the year 1910, it was increased to one-half of the duty payable on a conveyance. So there was an increment of 100 per cent. Now, under the Bill, the stamp duty on a conveyance has been proposed to be increased by 50 per cent. So, actually, the increase is 300 per cent. The proposed rate is three times the rate which was under the Act of 1899, because, under the Act of 1899, the rate was one-fourth the duty payable on a conveyance which was one per cent. and now it is proposed to make it one half of the duty payable on a conveyance which is the rate of one per cent. Therefore, the proposed rate is three times the rate which was enacted under the Act of 1899. My suggestion is moderate. My idea is to make the duty the same as has been since 1910. With reference to these points, I will draw your special attenion to the remarks of the Bengal National Chamber of Commerce. The Committee of that Chamber are of opinion that the duty on this item should be raised by 25 per cent., if at all, in view of the fact that the executants within the Municipal area of Calcutta have already to bear an additional 2 per cent. for the benefit of the Improvement Trust. Some consideration should be shown to the transactions within the town of Calcutta.

Their committee are of opinion that the increase of stamp duty for share-warrants is excessive. Distinction has always been observed in respect of movable and immovable properties for the purpose of imposition of duty. And their committee fail to see why the duty on share warrants should be higher than that on transfers of immovable property. It is well known that these warrants are transferred more frequently than immovable properties. The highest duty on this item should not be more

han that payable on conveyance. In fixing this duty, the Legislature ould take into consideration the full of profits in the trades. As it has lready been proposed to increase the duty on conveyance no increase on is head is necessary as stamp duties on this head are assessed on the asis of duties on conveyance.

So it appears that the share-warrant is on an immovable property and n no case the rate of duty on the share-warrant should be more than that f a conveyance of immovable property. With these words, I beg to ove this amendment.

Mr. H. E. SPRY: Mr. Addy has tried to make a good deal out of these hare-warrants. The instruments referred to in this article are practially never assessed individually to stamp duty in Calcutta, for I am nformed that the normal course is for companies to pay duty under the omposition clause of the exemption. But, Sir, even if that were not he case, I should still contend that the increased duty proposed is justiable. In the case of bearer share-warrants no transfer deed is required. he shares pass from hand to hand as bearer documents and the result is hat the State does not get stamp duty on the transfers. Therefore it is esirable that there should be a reasonably heavy duty on this particular ind of share-warrant. As to what were the facts 23 years ago, while hanking Mr. Addy for the information, I am afraid I am not very interested in or concerned with the state of affairs in 1899. The position today is what we are concerned with. To use an expression that Mr. Addy imself frequently employs, I think the House will agree that the proosed increase of duty is very moderate. I oppose this amendment.

The motion was put and lost.

The DEPUTY-PRESIDENT: The question is that article 59 stand art of the Bill.

The motion was put and agreed to.

Article 61.

The DEPUTY-PRESIDENT: The question I now have to put is that rticle 61 stand part of the Bill.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in chedule I.A, article 61(*b*), for the words 'Seven rupees eight annas' n the second column, the words 'five rupees' be substituted.

Dealing with article 61 we notice that that instrument refers to the urrender of a lease, and my submission is that with regard to the modication in sub-clause (*a*) when the duty with which the lease is chargeble does not exceed Rs. 5 and in 'any other case' that duty is Rs. 5. hat duty has been raised to Rs. 7-8-0 and my request is that Rs. 5 ought

to be retained. We are to deal here with surrender of a lease. When the lease is surrendered, I do not think that excessive duty is to be asked for. That is my view.

The Hon'ble Mr. J. H. KERR: Yesterday, when we were dealing with article 17, we accepted the Rai Bahadur's amendment to reduce the duty from Rs. 10 to Rs. 7-8-0, because cancellation is practically on the same footing as this article 61, which deals with the surrender of a lease. Now the Rai Bahadur wants to reduce the duty in this article from Rs. 7-8-0 to Rs. 5 and I really do not know where he is going to stop. I must oppose this amendment.

The motion was put and lost.

The DEPUTY-PRESIDENT: The question is that article 61 stand part of the Bill.

The motion was put and agreed to.

Article 62.

The DEPUTY-PRESIDENT: The question I now have to put is that article 62 stand part of the Bill.

The following amendment was, in the absence of the member, deemed to be withdrawn:-

Babu INDU BHUSHAN DUTTA: That in Schedule 1A, article 62(*a*) and (*b*), in the second column for the word 'one-half' in the two places where it occurs the word 'one-quarter' be substituted.

Babu AMULYA DHONE ADDY: I move that in article 62, clauses (*a*) and (*b*) in the second column, for the words 'one-half' in the two places where it occurs, the words 'one-third' be substituted.

It appears from the Act of 1899 that the rate of duty on transfer of shares was one-fourth of the duty payable on a conveyance for a consideration equal to the value of the share. Then, in the year 1910, it was increased to one-half of the duty payable on a conveyance—an increment of 100 per cent. Then in the Bill it has been proposed to leave the duty as it is, but the rate of duty on a conveyance has been increased by 50 per cent. So, practically, the proposed rate of duty on transfer of shares of incorporated companies is going to be three times the rate of duty it was under the Act of 1899. A few minutes ago, we were informed by Mr. Spry that we need not take into consideration what the rate of duty was a few years ago; but I may be allowed to say, Sir, that here is a proposal for the increment of duty not by 25 per cent. or 50 per cent. but by 150 per cent. on the rate of duty as enacted in 1899. I submit, Sir, that in 1910, the Legislature increased the rate of duty in

this particular case by cent. per cent. and now there is a proposal to make an increment of another 50 per cent. As my suggestion is a moderate one, I put it to the Council that instead of one-half of the duty payable on a conveyance, as it is under the Bill, it may be one-third of the duty payable on a conveyance, that is to say, that the rate of duty, as it was under the Act of 1910, should not be increased. It is well known to you that heavy losses are being suffered by the holders of shares of joint-stock companies. I am informed they have suffered owing to speculation. But is there any business—of whatever nature it might be—where there is no speculation more or less? I will cite one or two cases to prove that the holders of shares of certain joint-stock companies have been suffering very heavy losses. Take the case of the Belvedere Jute Company managed by Messrs. Andrew Yule & Co. It appears from *Capital*, which is a Commercial guide of Bengal, that in the year 1920, prices of these shares in the month of March was Rs. 525 for each share. Then in the year 1921 (March), it came down to Rs. 435 and then now it has come down so low as Rs. 250. So there is a decrease of 52 per cent. So it appears the present market value of these companies is about one-third of what it was two years ago. (A voice: "Gambling.") I take it, it is speculation, but it cannot be regarded as gambling. Then, there is another jute mill managed by Messrs. Gillanders, Arbuthnot & Co., *viz.*, the Gondolpara Jute Mill, the share of which was, in the year 1920, Rs. 1,825, in 1921, it came down to Rs. 1,150 and now it has come down to Rs. 590, a reduction of 67 per cent. So it appears that the price is not even one-third of the price it was two years ago. Take the case of tea shares. As it appears from that Commercial Guide —I mean *Capital* - in the year 1918, out of 129 tea estates, 94 companies were able to declare dividends. Then in 1919, out of 129 , 78 were able to declare dividends, but in the year 1920, out of 139 companies, only 13 companies were able to declare dividends. So it appears that 90 per cent. of the tea companies could not declare dividends. This will give an idea of what the holders of these shares have been suffering. I do not think this is the proper time to make further increment in the rate of stamp duty on the transfer of shares. I am sure it will further discourage Indian industries. It may be stated that these transfers are not generally stamped. But is that the reason as to why the innocent holders of shares should be punished in this way? I think this was one of the facts which was taken into consideration by the Legislature when the Act of 1910 was enacted, under which there has been an increment of 100 per cent. With these remarks, I beg to move this amendment.

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to withdraw the following three amendments standing in my name:—

"That in Schedule 1A, 62 (*c*) (*ii*), for the words 'Seven rupees eight annas' in the second column, the words 'Six rupees four annas' be substituted.

That in Schedule 1A, article 62 (*d*), for the words ' Fifteen rupees.' in the second column, the words ' Twelve rupees eight annas ' be substituted.

That in Schedule 1A, article 62 (*e*), for the words ' Seven rupees eight annas ' in the second column, the words ' Six rupees four annas ' be substituted.

The amendments were, by leave of the Council, withdrawn.

Mr. H. E. SPRY: I want to say very little on this, beyond expressing my surprise at Mr. Addy's lack of common sense in putting before the House the arguments he has already used in respect of another amendment. In the first place, it is not reasonable, I submit, to take the price of shares during the boom of two or three years ago, and to wring one's hands before the Council and suggest that those people who were foolish enough not to sell out in time, and who lost money in consequence, should not pay the proposed stamp duty. In the second place, everybody knows, including Mr. Addy himself, that if we were to get all the revenue we ought to get under this article the amount would be so large that the necessity for additional taxation would disappear. The truth is there are no holders of shares who are going to suffer. Very many shares change hands 10 or 12 times without paying any stamp duty, and it is unreasonable to contend that an increase of 50 per cent., as is proposed, can rightly be described as excessive.

The motion was put and lost.

The DEPUTY-PRESIDENT: The question is that article 62 stand part of the Bill.

The motion was put and agreed to.

Article 63.

The DEPUTY-PRESIDENT: The question is that article 62 stand part of the Bill.

The motion was put and agreed to.

Article 64.

The DEPUTY-PRESIDENT: The question I now have to put is that article 64 stand part of the Bill.

The following amendment, standing in the name of Babu Indu Bhushan Dutta, was, in the absence of the member, deemed to be withdrawn:—

That in Schedule 1A, article 64A and B, for the words and figures ' Bottomry Bond (No. 16) ' in the two places where they occur, the words and figures ' Bond (No. 15) ' be substituted.

The DEPUTY-PRESIDENT: The question is that article 64 stand part of the Bill.

The motion was put and agreed to.

Article 65.

The DEPUTY-PRESIDENT: The question I now have to put is that article 65 stand part of the Bill.

The motion was put and agreed to.

Clause 9.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 9, as amended, stand part of the Bill.

The motion was put and agreed to.

Preamble.

The DEPUTY-PRESIDENT: The question I now have to put is that the Preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. J. H. KERR: I move that the Bengal Stamp (Amendment) Bill, 1922, as settled in Council, be passed.

The motion was put and agreed to.

The Bengal Court-fees (Amendment) Bill, 1922.

The Hon'ble Mr. J. H. KERR: I move that the Report of the Select Committee on the Bengal Court-fees (Amendment) Bill, 1922, be taken into consideration.

The motion was put and agreed to.

Clause 1.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 1 stand part of the Bill.

Babu KISHORI MOHAN CHAUDHURI: With your permission, Sir, I would like to move the following amendment standing in my name after the next three amendments are considered as it is dependent on them:—

That in clause 1 (3) for the word 'force' the word 'operation' be substituted.

Maulvi MUHAMMAD ABDUL JUBBAR PAHLOWAN: I move that to clause 1 (*3*), the following be added, namely,—

'and shall remain in force for one year from that date.'

No explanation is necessary, I think, as the point had been discussed fully during the last few days, and I do not wish to waste the time of the Council by making a speech.

Rai RADHA CHARAN PAL Bahadur: A similar amendment was moved in connection with the Stamp Bill which has just been passed into law. I do not wish to reiterate the arguments that were adduced on that occasion. There are other motions in connection with this Bill also, some proposing two years' duration and others three years'; but my motion is confined to one year. The question has been discussed threadbare and the main arguments put forward indicate the general opinion that these measures should be temporary taxation measures for a definite period only. But the motions were all lost in the House, and I do not therefore wish to reiterate the old arguments that we did then adduce.

So far as this particular Bill is concerned, I may say that it is the distinct opinion of the Bengal Chamber of Commerce that it will cripple very much the position of litigants and also burden them to such an extent as will amount almost to a denial of justice. I do not wish to weary the House by quoting from the very instructive letter of the Bengal Chamber of Commerce and another letter, which I hold in my hands, from Rai Ram Charan Mitra Bahadur, C.I.E., Government Pleader, High Court, who also says that the present Bill practically deprives the poor litigants of justice which they have always obtained from the British Courts of law. The cost will be so prohibitive that many of them will rather forego justice at the doors of the British Courts than buy it at such a price. I do not want to enlarge on this subject, I may say one thing, namely, that these measures of taxation, especially the Court-fees Bill, if passed into law in their present shape, will add so much burden to the people that I am afraid it will accentuate and aggravate the discontent with which the country all round is seething. I hope the Hon'ble Finance Member will avail himself of the earliest opportunity to repeal the Bill as I know it is useless to expect any of these amendments to be passed.

In our discussions in the old Council, whenever we moved an amendment, we were almost sure of the slaughter of the innocents, and our experience of the Reformed Council shows that there has been no improvement in this respect, thanks to the manipulation and tactics of some members.

We find that it is hopeless to expect to carry any amendment against which the Hon'ble Members on the Government side have set their hearts Therefore, I do not wish to weary the House by arguments, for what is the use of knocking one's head against a stone wall?

Babu SATISH CHANDRA MUKHARJI: I move that to clause 1 (3) the following be added, namely,—

'and shall remain in force for two years from that date.'

My object in bringing this amendment before the House is that the receipts from the Judicial Department are more than sufficient to meet the expenditure on that department. The present tax is only meant to meet the deficit of the Government and there is no justification for making it a permanent one in the Statute. We have discussed the matter threadbare, while considering the Stamp Bill, although all the amendments on it failed. But there is a difference between this Bill and the Stamp Bill. It is said that justice must be cheap, and surely, the increase of 50 per cent. proposed in the present Bill does not tend to make justice cheap. It makes the old saying that justice must be cheap a sham. I submit that it will satisfy the public if we limit the operation of the Bill to two years. In the meantime we expect that our finances will improve and there would be no deficit two years hence. Even if there be any deficit two years hence, the question of making the Act a permanent one or extending its operation still further might be considered then.

Babu NIRODE BEHARY MULLICK: I do not wish to say much after what has been said by Rai Radha Charan Pal Bahadur and Babu Satish Chandra Mukharji. There are two courses open to the Council so far as this taxation Bill is concerned. The one is that which has been suggested by His Excellency the Governor, namely, to make the taxes, which we are going to impose, temporary ones, and the other is that we should make them permanent. I do not agree with those who say that these taxes must be made permanent otherwise no loan policy can be undertaken. My suggestion is that, as you have to wait till next April in order to see whether there would be any surplus as a result of the introduction of these taxes and before you can float a loan you must be sure of a surplus, it is better to limit the operation of the Bill to two years. We must not devote the proceeds of this Bill for the ordinary administration but we must devote them to meet the deficit. The policy that was laid down by His Excellency, namely, to make the taxes temporary, is the policy of least resistance and I submit to Government that it is wiser to adopt the course suggested by His Excellency. I think Government will consider this point.

The next policy described by Babu Satish Chandra Mukharji is that justice must not be taxed. If you look to the orders of the popular administrators and rulers, you will find that they all said that justice must be cheap. It is a misfortune that litigation has been described as a luxury. I may assure the House that it is not a matter of luxury. The present economic condition has already crushed the poor tenants and if there was any luxury in litigation, it has been given up owing to the economic conditions. So I submit that Government should reconsider

the position and confine the operations of the Bill to two years. If, at the end of that period, the Council is of opinion that the duration of the Bill should be extended they might do so.

SHAH SYED EMDADUL HAQ spoke in Bengali. His speech, translated, is as follows:—

Strong and vehement opposition was made when the Bengal Court-fees (Amendment) Bill was introduced, but unfortunately, owing to the majority of votes, this Bill was referred to a Select Committee, and, after it had passed that stage, it has again come to us for discussion. The points which have been raised by various bodies and associations have remained unanswered, and this fact leads us to come to the irresistible conclusion that the Select Committee did pay no attention whatsoever to those points. The points raised by the Government officers even have not been grappled with. Although it appears that the passing of this Bill will be beneficial to the Government, there is not the slightest shadow of a doubt that the result will be disastrous in the long run. We were defeated nothwithstanding our persistent opposition to the passing of the Stamp Amendment Bill even as a temporary measure; and although many members to-day have therefore lost heart and are totally apathetic towards this Bill, I feel bound to raise my emphatic protest and assign some new and cogent reasons. It has been said in Arabic "*Al Habib Meratul Habib*" (A friend is a mirror of a friend), that is to say, it is the duty of a friend to point out the defects of his friend. It is improper to point out one's defects to another, and not to the person in fault. On the one hand, we are the friends of the Government officials. On the other hand, we, too, are the friends of our countrymen, whom we represent in this Hall. So we are compelled to give vent to our feelings justly and honestly. Our expressions may sound somewhat harsh and jejune, but Sir, there is no help for it. I crave the indulgence of being pardoned by you and my colleagues.

To err is human, Sir. What seems to be very useful turns out useless in certain cases. This Bill, Sir, is of that nature. During the Hindu and the Muhammadan rule in India, the people obtained justice free of cost. Administration of justice is the duty of the king, and it is for this reason that revenues are collected. There was no such thing as court-fees during either the Hindu or Muhammadan rule. The Court-fees have been brought into being on the advent of the British in India. This, Sir, is a grave injustice in itself; and if the court-fees are enhanced, the injustice will be graver still. I submit, Sir, that it is beyond the bounds of prudence or reason to inflict punishment on human beings for no rhyme or reason. The famous Persian poet has sung: "*Okte Jarurat Chuna Manad Gurez, Duste Bhagirad Sere Shamse retej*" (When a person cannot save his life, he tries to save himself by catching the blade of the sword, without caring to have his palm cut). If I am permitted to say, Sir, the revolutionary organisation and the non-co-operation propaganda have come into existence in consequence of the

loud wailings of the poor people of this country. The members of this organisation are welcoming the jails and the tortures inflicted on them, knowing fully well their fate. It is said in Arabic, "*Eradatulla,*" etc., *i.e.*, "man proposes, and God disposes." The greatest politicians of the world have sunk into oblivion before the All-powerful God. Nobody dreamt for one single moment that the vast empire of Akbar the Great, who was styled as "*Delhisoro ba Jagadisharo ba*" would disappear. Nobody ever dreamt that the great Czardom of Russia would end on the gallows. (Cries of "Order, order.") Sir, I am fully entitled to give vent to my own feelings. I want to show that the passing of this Bill is calculated to bring about impending danger to my king and to my country. The adoption of a repressive measure has always ended in a total fiasco. Sir, I would submit that there is one God overhead, who is Omnipotent and Omnipresent. We cannot escape His scales of justice. I confess my knowledge is limited when compared with yours. But, Sir, I take pride in the fact that my forefathers were saints, and I belong to that saintly family. I regard religion from the core of my heart. I would therefore appeal to the House in the name of God and religion that we might administer justice in matters like this.

This Act is bitter to the backbone, as bitter as bitterness itself. You cannot expect sugar from a very bitter substance. As I have already said, you may extract some revenues out of it. The Act may serve as the medicine to give temporary relief to the disease of deficit; but unless and until the root-cause is diagnosed, and the proper medicine administered, this Act will never be able to cure that disease. How could you expect that it will cure another disease, when it is a disease in itself?

I have already explained in full in this regard, when the Stamp Bill was passed. I particularly dwelt upon the reduction of the salaries of the higher Government officials. Sir, a committee has been appointed to consider the question of the abolition of the posts of the Commissioners of Divisions. I would submit, in this connection, that steps be taken in like manner to consider the question of the abolition of the posts of some other unnecessary Government officers. If these posts are abolished, sufficient money would be forthcoming: the fat salaries which they draw would be saved. For this reason I would suggest that this Act be enforced for a period of two years only and not more.

The people of this country have been reduced almost to skeletons for want of sufficient food and nourishment. If this Act is passed, the people of this country will not be able to have their grievances remedied when they are tortured by the big people and deprived of their lands and properties, on account of their straitened circumstances. Sir, it is proposed in the Bill that we have to pay double the amount of court-fees if a criminal case is instituted. Men of our standing and circumstances have little or no cause whatsoever for resorting to criminal courts. It is the poor people who are beaten, bled and tortured. It is

the poor people who are liable to come under the purview of sections 342 and 343 of the Indian Penal Code. Moreover, the cost of these case are usually borne by the poor raiyats. The whole burden is borne by the poor. Although the bulk of the income accruing from the Stamp Amendment Bill will come out from the rich, the greater part of the income to be derived from the Court-fees Bill will be paid by the poor. Under these circumstances, the Court-fees Bill, if passed, will affect the poor considerably, and the fire which will be kindled, consequent on the moanings of the indigent people, will never be extinguished. Their wailings will affect the Government to a great extent and sap the very foundation, and the members of the Council are sure to be affected thereby. What will be our reply to our constituencies and to the supreme God overhead, if this Act is passed?

MEMBER in charge of LEGISLATIVE DEPARTMENT (the Hon'ble Sir Henry Wheeler): I rise to a point of order. I am informed that the member is not talking in any sense relevant to the Bill before the Council.

Rai RADHA CHARAN PAL Bahadur: I do not think that the Hon'ble Member is right. The member is talking in my own native language, and I know what he is saying.

Rai MAHENDRA CHANDRA MITRA Bahadur: My amendment runs as follows:—

"That to clause 1(3) the following be added, namely,—

'and shall remain in force for three years from that date.'

The object of my moving this amendment is that the Bill ought not to be in operation for more than three years. I want to fix a time-limit to it for various reasons. The first reason is that the present Act of 1870 is in operation for some time because the previous Acts were found to be too stringent. From the history of the enactments relating to court-fees, we notice several things. The old Act of 1867 was found stringent that, in the year 1870, it was found necessary to amend it. We also find, from the Statement of Objects and Reasons of the Act of 1870, "that the experience gained of their working during the two years in which they have been in force, seems to be conclusive as to their repressive effect on the general litigation of the country; it is therefore thought expedient to make a general reduction in the rates now chargeable on the institution of civil suits and to revert to the principle of a maximum fee which obtained under the former law." Now this Act, which gave some relief, however small, to the parties concerned, I mean the litigant public, is in operation for some time; consequently, if any drastic change is necessary, then it ought to be in force for a limited number of years.

We have listened to the arguments of the Hon'ble Mr. Kerr at the time that he put the Stamp Bill before the House. We are all quite familiar with those arguments, but in the Court-fees Bill there ought to be a departure for various reasons. The profits of Government from the sale of court-fees are very considerable, as I will show you presently. In the year 1911, the receipts under the head "Civil Justice" were Rs. 92,00,000, and in 1913, it was Rs. 1,28,00,000. In 1914, we find the receipts were Rs. 60,00,000; in 1915, the receipts were Rs. 1,32,00,000, the expenditure was Rs. 61,00,000 and the profit was Rs. 70,00,000. In 1920, the receipts were Rs. 1,68,00,000 and the expenditure was only Rs. 73,00,000, leaving an income of Rs. 93,00,000 as profits to Government. I brought this matter to the notice of the Council at the time when I had the privilege of opposing the taxation Bills, and Mr. Duval explained to me that although there were profits under this head, these profits were spent for the purpose of constructing civil court buildings, etc. Whatever it may be we gather that there is a large profit under the head "Civil Justice"; that being so it is necessary to ascertain whether it will be incumbent on Government to spend these profits for the purpose of constructing court buildings. According to the view which I have taken, these works may be stopped for the present and the profits derived by Government may be spent otherwise. If that view is taken into consideration, then there would be no difficulty on the part of Government to allow the Bill to be in operation only for three years. Another additional reason which I assign is that if Government derives large profits under this head, they can very well say that these profits may be utilised for the purpose of a surplus. But if this Bill is passed, I predict that there would be a falling-off of revenue under this head. Whatever may be said, it is quite certain that the litigant public will not resort to courts for the purpose of having litigation, and consequently, there cannot but be a falling-off of revenue under this head. Litigation is not a luxury. It is protection of the weak against the strong, and people go to courts for the vindication of their rights and property. You may pass the law, but I prophesy that if it is stringently applied, there is an expectation of falling-off of revenue as was in the year 1867. Therefore, it would be judicious not to allow this Bill to be in operation for more than three years. By having a stringent law like this on the Statute Book, you are expecting to be in a position to maintain that surplus, but you will find that if there be a falling-off of revenue in the end, it will be a bad bargain altogether.

Lastly, I urge that if stringent measures have to be adopted, we must take into consideration the existing state of affairs. You now say that it is highly necessary for the Council to increase the revenue to meet the deficit. You are looking to that fact only; but there are other facts which ought not to be overlooked. Should you make larger profits than you have hitherto been making? When you are getting a profit of a crore or ninety-seven lakhs of rupees every year from the

"Administration of Civil Justice," would you be justified in adding more, say another crore or so, to the revenue under this head? Therefore I submit that we should not allow the operation of this law to continue for more than three years.

Babu KISHORI MOHAN CHAUDHURI: I, also, beg to propose that to clause 1 (*3*), the following be added, namely,—

' and shall remain in force for three years from that date.'

I think it is not necessary for me to add to the weighty arguments of my friend Rai Mahendra Chandra Mitra Bahadur as to why this measure should not be made a permanent one. I will simply add a few more words to show that we are not justified in making it a permanent measure. In this matter also, my complaint is that as to the form of taxation, the representatives of the people in this Council were not consulted. During the discussions on the Stamp Bill, we heard that two bodies were consulted; one is the committee appointed by Government, and the other the Standing Committee. We do not know what the opinion of the Standing Committee was. In the report of the Committee appointed to advise Government as to the manner in which the stamp duties now payable under the Indian Stamp Act could be increased, it does not appear that there was anything as to the desirability of accepting the view that if we were to saddle the people of Bengal with any fresh taxation, the amendment of the Stamp Act would be the most appropriate course. Whatever might be the effect of the Stamp Act, so far as the Court-fees Act is concerned, I do not see, Sir, or at least I am not aware of any expert opinion having been taken by Government. I, for myself, suggested to the Hon'ble Mr. Kerr that, if any taxation was necessary, he might do something in the way of creating a jute control agency in Bengal, like the rice control agency in Burma. Of course my friend thought it would interfere with trade and as such it was a very important question. However, it was not formally considered whether it should be done, and the suggestion was from an individual only. My complaint is that the opinion of the representatives of the people ought to have been taken before any particular form of taxation was considered most feasible.

My second objection is that as the difficulty is a temporary one, a temporary measure will serve our purpose. On this point, I believe, I can safely refer to the observations of His Excellency the Governor, made in this Council on the 21st November last. It was suggested then that the whole situation was not finally considered. I will read the portion of His Excellency's speech bearing upon the point:—

. . . **And our position is this, that if, to meet the immediate emergency with which we are faced, we are prepared to raise fresh revenue and to devote it to meeting our existing deficit, we do so still maintaining that we have a moral claim to further relief, and in that view, we regard the allocation of the proceeds of new taxation to the meeting of our deficit as a purely temporary expedient pending further relief,**

on receipt of which the new revenue raised would become available for those schemes of educational, industrial, agricultural and sanitary and medical progress which I am sure the Council as much as the Hon'ble Ministers who are charged with them so earnestly desire to see taken in hand.

So here it is stated that a temporary relief has to be provided, but there is that indication that hereafter when we would be relieved of our present difficulties, the proceeds of these taxes would be devoted to the nation-building departments. Is there any suggestion in this Bill that the proceeds—the whole portion of it—would be devoted to the nation-building departments at any time? On the other hand, there is the suggestion that it is not known whether we would get any further relief than what we have already received from the Government of India, and that if we fail to get any further relief, then whatever surplus there may be, a rateable proportion of it in the inverse ratio, that is two-thirds of the proceeds would be devoted to the nation-building departments. Was this the idea with which we were assured by the Governor that these proposals for taxation would be proceeded with? As far as I have been able to understand, on a perusal of His Excellency's speech, I am firmly of opinion that His Excellency also thought that, for the present, we would devote the proceeds of those taxations to meet the deficit and when we would be relieved of the difficulty, the whole proceeds will be given to the nation-building departments. I hope the members of the Council will also notice that there is no indication in His Excellency's speech referred to above that any portion of the proceeds would at present be utilised as a surplus upon which we could float any large loan and devote that amount to capital expenditure for the immediate relief of the tax-payers.

In his budget speech last year my esteemed friend, the Hon'ble Mr. Mitter said:—

> I feel it will not be right to impose any fresh taxation for carrying on the ordinary administration of the reserved and transferred departments. If, in future, we improve education or sanitation, it may be quite open to us to come forward with schemes for fresh taxation; but to tax Bengal for the purpose of a deficit for which Bengal is not responsible, to my mind would be unjustifiable.

This was his view last year. If he says anything now which is contradictory to the above, I think he will admit that the statement made by a person when he was unbiassed would be preferable to one made by him when biassed. As a member of the bureaucratic Government he may now say that it is absolutely necessary for the welfare of Bengal, but he was not of that opinion only 10 or 11 months ago; and I do not think my friend has grown much wiser in these 11 months. He was a most erudite member, conversant with financial business as well as with the political situation of the country, and I would take the statement made by him then as the right one, and would not accept the other which under the peculiar circumstances of the case he would be obliged to make.

Yesterday I was told by a very old friend of mine, for whom I have the highest regard, that he would not have supported the movement had it not been for the loan proposal which is absolutely necessary for the benefit of the people. So far as I have been able to understand the loan rules, my impression is that a loan can be floated for a particular purpose and that with the sanction of the Government of India if the money is raised in India, and with the sanction of the Secretary of State if the money is raised in England. But the limitation is that a Local Government may raise a loan on the security of the revenue allocated to it for any of the following purposes, *viz.*:

(*a*) to meet capital expenditure on the construction or acquisition (including the acquisition of land, maintenance during construction and equipment) of any work in connection with a project of lasting public utility, provided that—

(*i*) the proposed expenditure is so large that it cannot reasonably be met from current revenues, and

(*ii*) if the project appears to the Governor-General in Council unlikely to yield a return of not less than such percentage as he may from time to time by order prescribe, arrangements are made for the amoritization of the debt.

There are other clauses which are not relevant, and which I need not quote. From this it appears that a loan can be raised for a particular work of public utility but generally for works which are reproductive in nature. If it is to be spent on capital expenditure, the benefit must be of a lasting nature, and at the same time it is to be shown that the current revenue is not sufficient to meet the demand. I was also told by my friend that every capital expenditure in which the future generations are interested, ought to be met out of a special loan. But so far as I understand, that is not the scope of the contract of any loan for which, under the Reforms Act, we have been given power to raise and the reasonableness or otherwise must be made clear to the higher authorities. In this case you will notice that it is not dependent upon the decision of the Council. No proposal need be submitted to the Council for sanction, only the expenditure portion should be placed before us for our sanction. Here we are told that if there is any surplus that would be shown as the affluent circumstance of the provincial revenue and upon the security of that surplus we would be able to go to the market for a loan and it would be devoted to the capital expenditure and thereby the money would be saved for other purposes. But I do not think that the rules framed for borrowing really allow that procedure to be adopted. Whatever we are required to do for a special necessity or a special utility not only to a particular section of the community, but to the public in general, ought to be made clear and it has also to be shown that the current revenue is not sufficient to meet the purposes of administration. It should also be shown whether the expenditure would be reproductive or not. A suggestion was made by my

friend last year that if money was available they would come forward with schemes. The schemes are not before us and we make the complaint again. There was, however, some talk about it at the time of the passing of the Stamp Bill, and I again draw the attention of the House that when the schemes are not before us, we cannot come to the conclusion as to whether a loan should be made for the purpose. Also, circumstanced as we are, we are not justified in arriving at any conclusion, as we do not know whether, if a fresh revenue is raised, the major portion of it will go to meet the deficit and also to meet the ordinary expenses of administration; and as we have been told only a small slice out of a crore and half, *i.e.*, Rs. 20 or Rs. 40 lakhs may be made available for transferred departments in order to enable those departments to contract a large loan for any special work of public utility Every person, with a knowledge of his own household affairs, knows that by borrowing he simply cripples his future resources. If you borrow a crore—I do not know if that was the exact sum mentioned—about Rs. 8 lakhs would be necessary to pay for 20 years to pay off the debt.

Of course, if we are to pay the entire amount in 20 years, Rs. 5 lakhs would be absolutely necessary for the capital and a very good portion for interest. In the first year, it will be very large and it will gradually come to a very insignificant sum, but it cannot be less than Rs. 2 to Rs. 3 lakhs annually in the average. So really in 20 years we lose much.

Maulvi A. K. FAZL-UL HAQ: Sir, it is now time for adjourning for prayer.

The DEPUTY-PRESIDENT: It is just 6-10 P.M. and in a few minutes we shall adjourn.

Maulvi A. K. FAZL-UL HAQ: We do not say our prayers by the hour of the clock. I do not see any immediate prospect of the member finishing his speech.

Babu KISHORI MOHAN CHAUDHURI: I shall finish very soon. So when I take these facts into consideration, I think I am justified in again bringing this matter for the consideration of the House. We have, many of us, come here as the representatives of the people and we shall have therefore to look to the interests of the people at large. Here we may be influenced in various ways. But we must take into consideration the fact whether by our action we are going to benefit our constituents or not. After the piteous appeal made by Shah Syed Emdadul Haq, I hope that the members will be kind enough to take this matter into their consideration (A voice: "Still you will not finish") As has been said, every one is anxious that there should be no fresh taxation as it would be unbearable. If there is a special emergency we may do anything for a limited period and we must be justified in imposing any taxation for a definite period. If weare to do anything

which will be a permanent measure then we must take all the circumstances into consideration; otherwise we are not justified in making it a permanent measure.

Maulvi A. K. FAZL-UL HAQ: I beg to move that this Council do not reassemble after the adjournment for prayer in order to express our sincere regret and sorrow at the resignation of Mr. Montagu, the Secretary of State for India.

The DEPUTY-PRESIDENT: I am sorry that there is no such motion before the House.

The Hon'ble Sir HENRY WHEELER: May I rise to a point of order and point out that no such resolution is before the Council?

The DEPUTY-PRESIDENT: That is just what I have said.

Maulvi A. K. FAZL-UL HAQ: Nevertheless I am entitled to move the adjournment of the House to discuss a matter of urgent public importance.

The DEPUTY-PRESIDENT: You should have moved it at 3 o'clock immediately after questions—that is the rule.

Maulvi A. K. FAZL-UL HAQ: That I could and would have done, but I did not do it in view of the fact that there was urgent business before the House. Now that we have finished that important matter, I move that the House do not reassemble after the adjournment.

The DEPUTY-PRESIDENT: I am sorry that I cannot accede to your request as there is no such resolution before the Council. We are very much pressed for time and we must pass these taxation Bills by Friday next.

Maulvi A. K. FAZL-UL HAQ: I am afraid then, Sir, that we shall not reassemble after this adjournment. It is open to the members to leave and then there will be no quorum.

The DEPUTY-PRESIDENT: Let us see what happens.

Rai RADHA CHARAN PAL Bahadur: I am sure I express the sense of the Hindu members when I say that they share the feelings of regret and sorrow at the resignation of Mr. Montagu.

At this stage the Council was adjourned for 15 minutes.

After the adjournment.

Kumar SHIB SHEKHARESWAR RAY also supported the amendment that to clause 1 (3) the following be added, namely,—

'and shall remain in force for three years from that date.'

The Hon'ble Mr. J. H. KERR: I gave the House the other evening my reasons for objecting to amendments of this character. I showed then that under this haphazard or, as Mr. Langford James called it, hand to mouth system of administration, it would be impossible for us to make proper use of the funds which we should get from these taxation Bills. The House, by a large majority, accepted my view, and I think it would be an insult to their intelligence if I were to repeat my arguments again.

The following motion was then put and lost:—

That to clause 1 (3) the following be added, namely,—

'and shall remain in force for one year from that date.'

The following motion was then put and lost:—

That to clause 1 (3) the following be added, namely,—

'and shall remain in force for two years from that date.'

The following motion was then put and lost:—

That to clause 1 (3) the following be added, namely,—

'and shall remain in force for three years from that date.'

After the above motion was declared by the Deputy-President to have been lost, Babu Amulya Dhone Addy claimed a division.

The DEPUTY-PRESIDENT: I have already declared the sense of the House and you are too late.

The question now is that clause 1 stand part of the Bill.

The motion was put and agreed to.

Clause 2.

The DEPUTY-PRESIDENT: The question that I now have to put is that clause 2 stand part of the Bill.

The motion was put and agreed to.

Clause 3.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 3 stand part of the Bill.

Babu RISHINDRA NATH SARKAR: I move that clause 3 be omitted. It is an admitted fact that the Court-fees Bill will affect the poor very keenly. This clause relates to section 18 of the Act. Section 18 contemplates the payment of court-fees on petitions of complaint against wrongful restraint and wrongful confinement. It is known to many of us that in many cases or in most of the cases, the poor people are the petitioners. If, therefore, the rate of court-fees be increased the poor people will be shut out of the doors of the courts of justice in getting their wrongs redressed. Then, again, it is known to us that there is a considerable decrease in the institution of fresh suits both in the

criminal and in the civil courts. In the Appellate Side of the High Court there is practically no criminal bench sitting now. So it will, instead of increasing the revenue, cause a decrease which is already felt. On these grounds, therefore, I commend this amendment to the acceptance of the Council.

Babu FANINDRALAL DE: I also move that clause 3 be omitted.

As several amendments, all urging partial reductions in the proposed increases in the court-fees, stand in my name, I wish to make my standpoint clear once for all.

Justice should be imparted cheap, if not practically free. The latter case is impossible to-day for various considerations, one being the desirability of putting some restraint on the litigants by a tax: court-fees are therefore provided for. But the charge must not be prohibitive so as to cripple the would-be suitors in seeking redress. The above were the points in view of the authors of the Court-fees Act of 1870. Their idea was that the money obtained from this source should be utilised for the improvement of the judiciary and that the public, having also interest in the administration of justice, should also contribute something for the department. The case is different to-day. Administration of justice has become a paying concern; the money obtained here being spent for other purposes. This should be kept in mind when the Council proposes further taxation on the litigants and that to meet their other expenditures. Then again, I wish to emphasise the fact that not only the raiyats but the middle class people also in our country are extremely poor. The rights and titles of their lands and holdings are varied and complicated and very often necessitate decision in Courts. The cost of living has increased enormously and so also the general apathy to litigation in recent years; it is therefore desirable that the aggrieved parties should not be barred by prohibitive charges from seeking redress against oppression and left entirely to the mercy of the rich. And lastly, the question should be studied from a business standpoint of view, admittedly the principal motive at present. Increased charges do not always as a rule mean increased revenue, more so when the action is not absolutely imperative as in the present case. The authorities ought to have profited by the bitter experience of the Imperial Government in their returns from various departments, specially Telegraphs and Posts in this current year. What has occurred there can be repeated here also to the disappointment of the authors of the Bill.

As regards the amendment in question, the case is a simple one if we accept the propositions above. The section of the original Act which clause 3 amends reads: "when the first ordinary examination of a person who complains of the offence of wrongful confinement . . . is reduced to writing, . . the complaint shall pay a fee of annas Eight." Such cases are quite frequent and generally with poor people. It will be a positive hardship, if the charge for such is raised to Re. 1. The

wronged person will think twice before incurring the risk. If he refrains from it, he suffers silently, surely not a desirable state of affairs. The Government also loses the revenue not only on the first institution of the case, but also in its subsequent stages if the spirit is nipped in the bud. I wish therefore that clause 3 should be deleted, leaving the provision the same as before.

Khan Bahadur Maulvi WASIMUDDIN AHMED: I too move that clause 3 be omitted.

In the case of criminal complaints, the rule should be that all complaints should be exempted from any court-fees, because there is no knowing when a man might be obliged to ask for the help of the court. A man may be away from his home and may be assaulted and at a distant place he may not have sufficient money to pay the court-fees, but that is no reason why such a man should be refused justice. Of course, there is no time-limit for lodging criminal complaints. But there is a hard and fast practice, almost verging on a fixed law, that in the case of any delay the criminal complaints are looked upon with suspicion. There may be occasions when a man may be assaulted far away from his house and if there be any delay in lodging the complaint and in case he chooses to come home before lodging the complaint, then there is very little chance of his getting justice. The provision of the law pre-supposes that a man should carry a sufficient amount of money with him when he goes away from his house in order that he may get justice in case of his being assaulted in a foreign place. I think that this is a serious state of things which should be done away with at once. I feel, however, that the present Bill has taken a retrograde step. The framers of the Bill will not be satisfied with the original court-fee that a man was obliged to pay before he could get justice for assaults or similar offences. The Bill increases the burden cent. per cent. and I think no civilized Government could lay down that unless his case came within the purview of being a cognisable offence, he should furnish money before getting the help of the court. There are of course some people who are well off and can afford to pay, but there are also people who are not able to pay the amount that is necessary for getting justice. Of course, there is a provision in the law—"Unless the court thinks otherwise." But we have learnt from experience that this proviso is scarcely observed except in very peculiar and exceptional cases, when the court takes pity on a particular individual. We find that in 99 cases out of 100, people are obliged to pay these court-fees before they can get their complaints attended to by the courts. Then, again, before the advent of the British rule during the time of Muhammadan rulers, there was no restriction that a man should have to pay a certain amount of money before his case was attended to. Of course, for the purpose of raising sufficient revenue, Government has been obliged to bring forward these Bills; but at the same time Government should bear in mind that it is the first duty of the

Government to give justice to the people. Government should not therefore allow such conditions to exist wherein a person is obliged to pocket all his insults or his injuries simply because he happens to be poor. So, Sir, I strongly urge this Council not to raise the amount of court-fees on criminal complaints. Moreover, you will see from other provisions as well that even the amount of court-fees on *vakalatnamas and muktearnamás* has been increased by one hundred per cent. Of course, the Hon'ble Mr. Kerr, when introducing these Bills, said that it would not affect a person much if he had to pay a few annas more when he chose to go in for a particular course of action. But here in the case of criminal complaints that man has only two alternatives: either to suffer injury or indignity without saying anything, or he must pay a considerable amount. Of course, I quite see that the English people—very rich people—who only talk in millions, hundreds and thousands of millions may consider it to be very insignificant, whether a man has to pay eight annas or a rupee; but I submit to them that they should bear in mind the conditions obtaining in this country. The daily earning of a man who earns three rupees a month is not more than an anna and a half or something like it. If such a man is assaulted, how can you say that it is quite easy for him to pay rupee one instead of eight annas? So, I submit, that in deciding this question, you will consider what the financial position of the people in this country is and not what obtains in England or other rich countries. In our country we count money by *couries*. Here also, we think how much we lose or gain before taking any particular action. A person who has probably never seen a whole rupee coming into his hands cannot be expected to pay one rupee when he has to lodge a complaint before a criminal court. With these few words, I leave, very confidently, the matter to the consideration of the Council in the hope that the Council will take this point into consideration when voting for the amendment

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to support this motion. We are now dealing with complaints preferred in criminal courts by persons who think it necessary that all matters regarding offences committed should be represented to the courts. We are not dealing with civil suits and therefore it is necessary that the Council should consider whether leniency ought not to be shown to persons who are obliged to go to courts for the redress of their grievances. Section 18 of the Court-fees Act lays down that when the examination of a person who complains of certain offences, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing, under the provisions of the Criminal Procedure Code, the complainant shall pay a fee of annas eight, unless the Court thinks fit to remit such payment. Now this fee is going to be increased to Re. 1. Are you going to stop persons going to Courts for the purpose of the redress of offences committed on them by other people? You may think that there will be an increase of revenue,

but the result will perhaps be that practically the parties will be obliged not to complain to the courts for the redress of the offences committed on them. I do not know what information the author of the Bill has got on the subject. The number of petitions filed in criminal courts is not known to me and I am not in a position to say what amount will be realised if the fee is raised from annas eight to Re. 1, but it is necessary for the ends of justice that there ought not to be any increase under this head. You can increase the fees under other headings, but it will be a sad policy on the part of Government if the fee for the preferring of complaints is increased. I think it my duty to bring to the notice of the Council that such a drastic step should not be taken.

The Hon'ble Mr. J. H. KERR: I think that the members who have discussed this matter rather overlooked the fact that this section 18 of the Act in which we seek to amend the rate of fee applies only to a very limited class of criminal cases. The main provision in the Bill which regulates fees in criminal cases is in Schedule II. There we propose to make a corresponding change and to raise the fee from annas eight to Re. 1. We must, therefore, in considering the financial effect of this amendment take all criminal complaints whether they come under section 18 or under the Schedule. The Rai Bahadur asked for figures as to the number of complaints and I am glad to be able to give him those figures. In the last year for which we have statistics, there were 3,49,000 criminal complaints in this presidency. Consequently under the rate proposed in the Bill we should obtain an extra revenue of about Rs. 1,75,000. If we adopt this amendment we should of course lose that revenue. That is a very strong reason against the proposal. It has been said that this particular provision in our Bill will affect a man of moderate means who has to go to court with a complaint against his neighbour. But as I said, when I introduced the Bill, it is really not a very serious matter; because I am informed on the best authority that you cannot run the simplest criminal case, such as cattle trespass, at a smaller cost than Rs. 8 or Rs. 10 and very likely more than that on account of payment to pleaders and witnesses. We are only asking for an additional contribution of annas eight to the State and I do suggest to the Council that this is not a very serious matter for the individual. In the case of big criminal complaints, that is to say, cases which last for several days or weeks, and they are I think the majority, it has long been notorious that the complaint fee is quite inadequate. A man who brings a case in a criminal court has to pay a fee of annas eight and for that he can get all sorts of decisions about rights in land, etc.—most complicated decisions—which the court can only arrive at after several days' work, and he gets all this at a cost of annas eight only. The Council will, I am sure, agree that that person can very reasonably be called upon to pay Re. 1. That is really the whole situation. This raising of the fee on criminal complaints in the

aggregate forms an important part of the revenue that we hope to get from this Bill, and for that reason we are unable to give it up. At the same time we think that we have good grounds for saying that the hardship caused by this additional charge will not on the whole be very serious.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that clause 3 stand part of the Bill.

The motion was put and agreed to.

Clause 4.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 4 stand part of the Bill.

Babu FANINDRALAL DE: Clause 4 of the proposed Bill is a distinct improvement over the provisions of the original Act under the circumstances. By raising the amount or value of the property in respect of which duty is to be charged when probate of wills or letters of administration is granted, from Rs. 1,000 to Rs. 2,000, the authors of the Bill have certainly done a great service to the proprietors of small estates. In moving the present amendment, I now simply wish that this relief is extended to the succession certificates also. Frequently it happens that a widow is to take the succession certificate in respect of an Insurance Policy for Rs. 2,000 or less, left to her, which may be the only source of her maintenance, possibly with circumstances. Surely it will be a hardship on her to pay the duty. Examples can be multiplied but I do not think there is any necessity. I wish therefore that, in clause 4 of the Bill amending section 19 of the Court-fees Act after the words " letters of administration " the words " succession certificates " under Act VII of 1889, be added.

SECRETARY to GOVERNMENT, JUDICIAL DEPARTMENT (Mr. H. P. Duval): Section 19 of the Act says that probates and letters of administration, where the amount or the value of the property in respect of which the probate or letters or certificate shall be granted does not exceed Rs. 1,000, shall be exempted from court-fees. We have proposed to raise the limit in the case of probates and letters of administration up to Rs. 2,000, and in the case of certificates up to Rs. 1,000. At present, certificates under the Succession Certificate Act are chargeable with duty however small the amount for which a certificate is wanted may be, and a concession is proposed by exempting certificates from stamp duty up to Rs. 1,000. We do not think

we can go any further than that and make the exemption up to Rs. 2,000. The member will see that at present the position is that probates and letters of administration get an exemption when they are less than Rs. 1,000, and we are now proposing that certificates up to Rs. 1,000 should get exemption and probates and letters of administration up to Rs. 2,000 should also be exempted. I therefore oppose this motion.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that clause 4 stand part of the Bill.

The motion was put and agreed to.

Clause 5.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 5 stand part of the Bill.

Khan Bahadur Maulvi WASIMUDDIN AHMED: It is already 7 P.M. Are you going to continue?

Babu AMULYA DHONE ADDY: Before this item is taken up, may I suggest to you to adjourn the House? Most of the members—the Indian Members—have left the Hall in the belief that the Council will be adjourned. Some of them have intentionally left the Hall owing to the lamentable resignation of Mr. Montagu. (Cries of "Order, order.") I appeal to you to adjourn the House.

The DEPUTY-PRESIDENT: I cannot adjourn the House. I said yesterday that we might have to continue till late in the evening.

Khan Bahadur Maulvi WASIMUDDIN AHMED: The amendment which I beg to move is as follows:—

That in clause 5, article 1, for the first three entries in the second and third columns, the following be substituted, namely,—

'When the amount or value of the subject-matter in dispute does not exceed five rupees,	Six annas.
and	
when such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees,	Six annas.
and	

when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees, 'Twelve annas.'

and

In short I want to keep in tact the original court-fees imposed on suits up to Rs. 1,000. You know that above Rs. 1,000 there was a concession rate of court-fees of Rs. 5 per Rs. 100, and by the present Bill the same court-fee is going to be raised to Rs. 7-8-0. Therefore, with respect to suits of over Rs. 1,000 this Bill imposes nothing but does away with the concession hitherto allowed to suits ranging over Rs. 1,000. So the hardship caused to the people when the value of the suits does not exceed Rs. 1,000 is very great. Therefore, I pray that the original fees prescribed for these suits should be retained.

I therefore move the amendment for the acceptance of this House, and in doing so I have entertained a very high hope because this Council has always shown sympathy for the poor and is reluctant to support any measure that is likely to tell heavily against the poor. Sir, I admit that these taxations have been forced upon us by circumstances over which we have had no control and as we desire the stability of Government, and like to see it go on with some efficiency, we have voted for their introduction. But we must see that these taxations do not materially affect the mass and the poverty-stricken population who derive but very little advantage from the high expenditure of Government. The upper and the middle classes derive much benefit directly or indirectly from the costly system of administration as most of the people who enjoy the loaves and fishes of the State come from these two classes; so they have some sort of compensation of their share of taxations.

The Hon'ble Mr. Kerr, in his speech on the 20th January, 1922, introducing the taxation Bills remarked—

. . . all these three Bills that I have mentioned have one common element, they all impose a tax on what may be called luxuries or what, at any rate, cannot be described as necessaries of life; they all impose a tax which will not be seriously felt by the people who are called upon to pay.

And again he says—

. . . that the tax will be paid by a limited class of persons who have definitely resolved to go in for a certain course of action and that the new taxation which we propose will add very little to the expenditure which such person must incur if he undertakes any liability at all.

As these are very deliberate statements laying down, as it were, the corner-stone of justification for these taxes, I shall use them as crucial tests for examining whether enhancements of court-fees in the munsifs' courts can bear the test and can be justified on these grounds. As you are aware, Sir, most of the suits in the munsifs' courts are

the outcome of failure of obligations of the poor raiyats for the money they are forced to borrow either to keep their body and soul together or to carry on their profession or to pay the rent of their lands. These are generally due to the failure of crops owing to natural causes over which they have no control and which deprive them of the fruits of their year-long labour. Government have done next to nothing for mitigating these evils. They are also victims to the unusual fluctuations in the prices of their produce. The dealers in these commodities and *mahajans* who finance them in carrying on their profession, taking advantage of the helpless condition of the Bengal raiyats often dictate prices for their goods, and terms for their loans, which are ruinous to the raiyats. They scarcely have anything left to them after satisfying the inordinate desire of those people to make unusual profits at the cost of these poor people. Then again, these people often have to incur the displeasure of the landlords and *mahajans* and they have to pay heavily for them. They are generally illiterate and it is very easy to fabricate false documents against them. In order to avoid suspicion of the Court, these documents are generally made for small sums and taking advantage of sections 19 and 20 of the Limitation Act, they put false entries on the back of these false documents and after 9 or 10 years, these false documents are brought to light and suits for heavy sums are brought and with the help of small causes courts they are crushed. The provincial small causes courts are engines of oppression which are presided over by people who generally belong to the class to which the plaintiffs in these cases belong, and they have very little idea of what happens in the villages. Will the Council, I ask, put the last straw to break the camel's back by additional court-fees on their unbearable burden?

The remarks of the Hon'ble Finance Member can apply to the provisions of the Stamp Bill and Amusement Tax Bill, but can they apply, by any show of reason, to the Court-fees Act, at any rate to the suits in the munsif's court? Sir, I am not a good speaker nor a good debater. I cannot engage the attention of the House by making a thrilling speech as more gifted brethren of this Council are often doing. But the justice of the cause of the poor people for whom I am pleading and who supply the fuel to all the activities of the world including the highly imaginative brains deserves your best consideration. I hope my defects will be compensated by this sympathy and secure their undivided attention.

In the first place, let us see if the suits in the munsif's court can be called luxuries or cannot be called as the outcome of the necessaries of life. I have stated above that most of these suits are the outcome of inability of the poor tenants to fulfil their obligations to their landlords or money-lenders for causes not within their control. In all these cases, they are not plaintiffs but defendants who have to pay the cost of the

suits in the long run. Court-fees in various shapes *ad valorem* fees—*vakalatnamas*, process-fees and affidavits, etc., often rise up to the 15 per cent. of the value even when a suit is decreed *ex parte*.

If these are increased by 50 to 100 per cent. they cannot be called "a few additional annas in the way of court-fees" and the defendants in these cases cannot be called "persons who have definitely resolved to go in for a certain course of action."

Statement "G" of the High Court's report for the year 1919, on the administration of civil justice, shows that in 1919, the munsifs disposed of 6,94,033 suits out of which 85,935 or 12 per cent. were contested and 6,08,098 or 88 per cent. were uncontested. Out of the total number of suits disposed of 2,57,756, or 37 per cent. represent money suits, and 3,79,312 or 54 per cent. represents rent suits, and 57,567 or 9 per cent. represent title suits.

Of the money suits disposed of, 30,719 or 12 per cent. suits only were contested; out of rent suits only 41,408 or 11 per cent. were contested or, roughly speaking, in 99 cases out of 100, the defendants were made liable to pay the full cost of litigation even when they abstained from going to court either because the claims were just or they had not money enough to defend. In all seriousness I ask what justification have you to increase by 50 per cent. the burden of these poor and innocent people? Out of these contested suits, 99 cases out of 100 are decreed against the defendants and even when the defendants succeed they are not allowed costs. So you see in all the cases, the poor raiyats are the worst sufferers. There is another aspect of looking into the question of these taxation Bills, as the Hon'ble Finance Member has said that "the tax will be paid by persons who have definitely resolved to go in for a certain course of action." These defendants who have never gone within the precincts of the court cannot be said to have adopted any course of action and yet they have been saddled with cost. So the test completely fails here. In determining the cost in *ex parte* suits, the pleaders are allowed half their ordinary fees as they have not to undergo the same amount of trouble as in the contested cases. By following the analogy in *ex parte* cases where the munsifs have very little to do and can dispose of many cases within an hour, the Government should not claim more than half the court-fees and should refund the balance, and the defendants who have not come to court, and the court had not to expend any appreciable time for them, should not pay the full cost but only half the cost should be decreed against them. If such a course were adopted, then I can assure the House, the Government would have to refund a very large part of revenue derived from court-fees as 88 per cent. of the suits in the munsifs' courts are decided *ex parte*.

Under the Stamp Bill and Amusement Tax Bill, people who are going to secure money or have extra money to spend for amusements are called upon to pay, but here, under the Court-fees Act, the people who, owing

to extreme poverty could not fulfil their contracts, are called upon to pay additional court-fees together with accumulated interest at a very high rate ranging from 37½ to 100 per cent. per annum. A man who borrows Rs. 200 was called upon to pay an additional sum of four annas only. Yet the Council was gracious enough to remit the additional paltry sum of annas four, but the same man after four years, unless Providence help him with good crops and allow him the fruits of his labour, would be called upon to pay Rs. 400 together with court-fees of Rs. 45, the additional amount being not less than Rs. 15. Sir, I strongly supported the introduction of all the Bills as I knew full well that without such a measure, Government could not go on with efficiency and the new Government have not had sufficient time to see if it could not curtail its expenditure, but I remarked at the same time, that the burden should not be so heavy as to crush the poor. Owing to frequent failure of crops, unusually high price of the necessaries of life and, owing to economic derangements under which the rich are growing richer and the poor are growing poorer, the bold peasantry, the country's pride, are being reduced into serfs—their paternal acres are passing into the hands of money-lenders. If you, Sir, have no pity on them, they will sink deeper and deeper into the mire till all their activities are smothered—the stupendous fabric will fall to pieces.

I studiously avoided giving notice of or moving any amendment to the provisions of the Stamp Bill or Amusements Tax Bill, because I know the possible hardship caused by these two Bills dwindle into insignificance when compared with those caused by the Court-fees Bill. The provisions of this Bill materially affect people who are least able to pay and the impositions are not "a few annas in the way of court-fees," as the Hon'ble Member suggests, but in most cases, heavy sums. So I urge with all the emphasis I can command to withhold from crushing the people who are most oppressed—who are called to pay not for their voluntary action but for their sheer helplessness. Perhaps it will be said that if court-fees on suits up to Rs. 1,000 be not increased the expected revenue will fall by nearly Rs. 30 lakhs. I submit, Sir, the prospect of a big revenue cannot justify such oppression on the helpless no more than can the expectation of a large booty justify an indiscriminate loot. Moreover, such increase of court-fees may frustrate the very object of taxation, as the cases are likely to fall abnormally in the munsifs' courts as the people may find it more convenient to submit to arbitration courts, which are being organized by the non-co-operators and the taxation Bills will supply an additional lever in their hands. If Government would kindly accept my amendment, it will still have an additional sum of Rs. 50 lakhs from Court-fees, Rs. 50 lakhs from Stamps, and Rs. 25 lakhs from Amusement Taxes. These will enable the Government to tide over the difficulties. If Government can mature a plan of improving sanitation, agriculture and industries of the province—people will be only

too glad to help Government. Moreover the most part of these expenditures can be recovered from the people who will be benefited from such works of utility. So I hope this Council will kindly consider the hard case of the poor people, 88 per cent. of whom are going to be heavily taxed beyond their means for no other fault of their own than inability to fulfil their obligations due to extreme poverty.

With these words, I leave the matter to the mercy of the Council.

Adjournment.

It being 7-30 P.M., the Council was adjourned till 2 P.M. on Tuesday, the 14th March, 1922, at the Town Hall, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber in the Town Hall, Calcutta, on Tuesday, the 14th March, 1922, at 2 P.M.

Present:

The Deputy-President in the Chair, the Hon'ble the four Members of the Executive Council, the Hon'ble the three Ministers, and 88 nominated and elected members.

Government Bills.

The Bengal Court-fees (Amendment) Bill, 1922.

The discussion on the Bengal Court-fees (Amendment) Bill was continued.

Clause 5.

Babu AMULYA DHONE ADDY: I move that in clause 5, for the first three entries in the second and third columns of article 1, the following be substituted, namely,—

' When the amount or value of the subject-matter in dispute does not exceed five rupees,	Six annas.
and	
when such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees,	Six annas.
and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to five hundred rupees,	Twelve annas.
and	
when such amount or value exceeds five hundred rupees for every ten rupees, or part thereof, in excess of five hundred rupees, up to one thousand rupees,	Fifteen annas.'

and that in the proviso to the last entry in article 1, for the words 'ten thousand rupees' the words 'five thousand rupees' be substituted and that the table of rates be corrected accordingly.

This motion may be split up into three parts: first, as regards the rate of duty on suits of the value up to Rs. 500, then between Rs. 500 and Rs. 1,000; and the third is the last entry in article 1, under which the maximum amount is to be Rs. 5,000 instead of Rs. 10,000. I suggest that these three parts of the motion may be put to the vote separately, because there may be a difference of opinion as regards the first one, while there may be none as regards the second or third.

The DEPUTY-PRESIDENT (Babu Surendra Nath Ray): That cannot be done.

Babu AMULYA DHONE ADDY: I make this suggestion for your favourable consideration. Now, let us see what the existing rates are under the law in force, what rates had been suggested in the original Bill, what rates have been suggested by the Select Committee and what rates I suggest for your favourable consideration.

Under the law in force, the rate of duty is 7½ per cent. up to Rs. 1,000. Then, under the original Bill, the rate of duty was 11¼ per cent.; and then, as suggested by the Select Committee, the rate is to be 7½ per cent. up to Rs. 50, and then, at the rate of 10 per cent., up to Rs. 100, then 11¼ per cent. up to Rs. 1,000, but there is a difference in regard to the amount of duty on suits of value between Rs. 100 and Rs. 1,000; because, under the original Bill, it was to be in excess of Rs. 100. Even under the law in force, it is to be in excess of Rs. 100. But, Sir, the Select Committee have suggested a flat rate without any restriction whatever. From Rs. 100 to Rs. 1,000 they have suggested a rate of 11¼ per cent. on value from Re. 1 to Rs. 1,000. It is a flat rate which has been introduced and embodied in the Bill, though there is no such provision in the existing law and there was no such proposal in the original Bill. What I beg to suggest is that there should be no increase of duty up to Rs. 500, and above Rs. 500 to Rs. 1,000, the increment may be at the rate of 25 per cent., and above Rs. 1,000, it may be at the rate of 50 per cent. as suggested by Government as well as by the Select Committee.

The third suggestion which I make is that the maximum amount may be Rs. 5,000 instead of Rs. 10,000 or Rs. 3,000 as under the law in force.

Now, Sir, when the principles of this Bill were under discussion in this Council, I was given to understand that some relief would be granted to the poor; and even the Hon'ble Member in charge assured us that the Select Committee would take these suggestions into their favourable consideration. But what do we find? We find just the reverse. The concession which has been granted is a nominal one, because, as will appear from the report of the Select Committee itself, the committee had considered the desire of the Council that the fees of small value

suits should not be increased. So, they have admitted that it is the desire of the Council that the fees of small value suits should not be increased. But, notwithstanding this fact, they are unanimously of opinion that the limit of Rs. 50 should be the limit up to which no increase in the present rates should be made. They are also of opinion that the increase on suits valued at Rs. 50 to Rs. 100 should be only two annas instead of three annas as proposed in the Bill. They consider that this favourable scale should not apply to suits valued at Rs. 100 and that the flat rate of Re. 1-2-0—I beg to lay emphasis on the flat rate— for every ten rupees should be applied to such suits for the entire value of the suit including the first hundred. So, it appears that the Select Committee have admitted that it is the desire of the Council that the fees of small value suits should not be increased. The only concession which they have made is up to Rs. 50. Is it enough? Is it in accordance with the desire of the Council? I appeal to this House to consider whether that is in accordance with the desire of the Council.

Under the Bengal Tenancy Act, the maximum period within which suits for arrears of rent are to be instituted is four years. Therefore, the landlords, lest their suits be barred by limitation, are under the painful necessity of instituting suits against their tenants. Although the tenants are always willing to pay their rents regularly, yet, in the majority of cases, they cannot pay off the arrears within the prescribed period of limitation. We have sometimes failure of crops in some districts and that is one of the reasons. In the district of Khulna, a few years ago, there was a cyclone which damaged the crops and last year there was also scarcity. These are the reasons why the tenants, though they may be willing to pay off their arrears, cannot do it. At the same time, the landlords in order to avoid limitation, are obliged to bring suits against their tenants. Therefore, if we increase the rate of duty on suits, it is the raiyats who shall have to pay. Of course, the landlords will have to pay the duty in the first instance, but they will ultimately realise it from the tenants, though reluctantly. It is therefore the raiyats who will suffer under the proposed Bill.

Then, in the case of money suits, under the law of limitation the period is three years. Therefore, the creditors, however unwilling they may be, are obliged to institute their suits against the debtors within the period of three years. Therefore, the poor people shall suffer if these rates are increased.

Then, I will draw your attention to the old history of the levy of duty on suits. There was no such duty before the year 1862. It was only in the year 1867 that it was for the first time levied and under the Act of 1867 it was passed. The main reason was to meet the expenditure due to increase in the salaries of the subordinate judges and to the allowances to the ministerial officers in the civil and revenue courts throughout India. This increase of salaries amounted to a heavy sum. So, the main object was to raise that amount, though partially, by

increasing the rate of court-fees prescribed in the Act of 1867. But it was soon found that the Act proved "repressive of litigation, not dishonest litigation, but the *bonâ fide* pursuance of real or imagined rights." That was the statement made by the Hon'ble Sir John Strachey, the then Finance Member. But what was the result of this high rate of fees? The result was that the number of suits fell off by 20 per cent. Sir, subsequent experience also showed that the duties imposed by the Act of 1867 were too high and a Bill, which has become the Court-fees Act of 1870, was introduced in 1869. Its principal object was to relieve suitors by reducing the duties; the loss in revenue was made good by an increase in the probate and administration duties. The maximum limit in the amount of court-fees has also been fixed.

Then, the Hon'ble Sir John Strachey is reported to have stated, when the Bill was under discussion:—

> I had always believed that of all bad taxes that exist, there was none worse than high taxes on the administration of justice and that the taxes imposed under the existing law (Act of 1867) were in my opinion enormous.

I beg to draw your special attention to the above statement. That statement was also endorsed by the Hon'ble Sir Richard Temple who was the Lieutenant-Governor of Bengal at that time and by other hon'ble members of the Council. So, it appears, Sir, that there was no such taxation before 1867; and, in order to avoid vexatious suits, this duty was levied. However, in the course of two years, it was found out that the number of suits came down by 20 per cent. Now, Sir, let us see what was the object of this Act. It was to meet certain charges—though not the whole of them—not more than 50 per cent. of the salaries of the judges and of the ministerial officers. The tax was raised not to meet any deficit in the general expenditure, but simply for two objects—first of all, to avoid vexatious suits, and secondly, to meet a certain portion of the salaries of those judges and ministerial officers.

Then, I will draw your special attention to the opinion of the several public bodies whose opinions were asked for by the Government. The Bengal Mahajan Sabha have stated that they are opposed to the principle of imposing fresh taxes upon justice. It would be a case of denial of justice if we were to increase the rates, specially in small suits which will affect the poorest of the poor in Bengal. The committee of the Bengal Mahajan Sabha are opposed to the principle of imposing further tax on justice. One of the attributes of good Government, that committee further states, is, at any rate according to oriental ideas, that justice should be administered as cheaply as possible. It is indeed a violation of that rule when court-fees are realised to meet the cost of the administration of justice. But it becomes almost indefeasible when the Government want to make a profit from the administration of justice with a view to meet the cost of other branches of administration.

Their committee, in any case, do not think that there can be any justification for an increase in court-fees in connection with suits or applications which would impose burdens upon poor litigants, mostly agriculturists, who should on no account be fleeced in order to meet the cost of maintaining highly-paid officials for carrying on other branches of Government.

Then, I will draw your attention to the opinion of the Bengal Chamber of Commerce, a body which consists of men of business. I am sorry, Sir, to find that the representatives of that body in this Council are now absent. Now, the Chamber have stated the whole history and have expressed their opinion that the Chamber is strongly against any increment of the rate of duty on suits. Sir, as appears from the report I have quoted from, it was the policy of the Government to administer justice free of charge to suitors. But this policy led to many false and frivolous suits.

The DEPUTY-PRESIDENT: I think the reports are before the members of Council and you need not quote from them.

Babu AMULYA DHONE ADDY: I know that, Sir, but as the report appears to be an important one, I think I am justified in drawing your special attention to that report.

The DEPUTY-PRESIDENT: If you think it absolutely necessary you may do so, but you must not quote copiously.

Babu AMULYA DHONE ADDY: So far as this report is concerned, I think it is absolutely necessary; but I would be very brief. Then, Sir, later, an Act (XXXVI of 1867) was passed in order to provide the money needed for improvement of the judiciary. According to the Statement of Objects and Reasons for that Act, it was conceded that the expenditure on the courts of justice should not be met in full by a tax on such persons as alone resort to the courts; for it was held to be manifest that all classes of the community have a more or less direct interest in the administration of justice. However, Sir, in the opinion of the committee of the Chamber, who have examined the matter carefully, it certainly appears to be a question for consideration whether the Government ought further to tax litigants in order to raise funds for purposes other than the proper administration of justice. After all, the Chamber consider that the cost of litigation is already sufficiently high, and that the contemplated increase will give additional cause for complaint.

Then, Sir, I will draw attention to the opinion of Babu Ram Charan Mitra, Government Pleader of the High Court, Calcutta. He says that while the proposed rates will largely increase the revenues, they will in effect shut the doors of court-houses against the poor subjects who may have occasion to seek redress. At the present time, the cost of living has increased enormously, and with the high prices of labour,

the fees payable to legal practitioners have also increased in proportion. The Bill, if passed, will literally cripple the wronged subject against seeking redress from courts.

Then, Sir, I will draw your attention to the opinion of the Marwari Association who are also strongly opposed to this taxation.

Then I will draw your attention to the opinion of the District Judge of Midnapore. He says:—

I agree, however, with both the Additional District Judges here (Midnapore) that this object should not be achieved at the expense of the very poor or at the risk of justice being made prohibitively expensive.

Two of the subordinate judges of Dacca have also expressed similar opinion.

Then, the District Judge of Mymensingh says:—

I beg to add that the subordinate judges and munsifs here, who have been consulted, consider the scale of court-fees proposed to be too high and the munsifs apprehend also unpopularity.

So, it appears, Sir, that even the officials who know the suitors better than we do, have expressed their opinion that it will seriously affect the poor and that it will cause unpopularity and deny justice as well. Notwithstanding the strong opinions expressed by these important public bodies and high officials, I have made very moderate suggestions. My suggestion is not to exempt the poor altogether. But what I submit is that up to Rs. 500 there should be no increase and between Rs. 500 and Rs. 1,000 there should be an increase of 25 per cent. instead of 50 per cent. as suggested in the Bill. With reference to this point, I may be allowed to say that the Bengal Mahajan Sabha have expressed their opinion that there should be no increase up to Rs. 2,000. The subordinate judges of Dacca, as I have stated, think that there should be no increment up to Rs. 1,000; and that is also the opinion expressed by Babu Ram Charan Mitra, Government Pleader, High Court, Calcutta. The Marwari Association have also expressed the opinion that there should be no increment up to Rs. 500; so says the District Judge of Bakarganj. Therefore, nothwithstanding the opinion of the Mahajan Sabha, I have made a very moderate suggestion that there should be no increment in the rate of duty up to Rs. 500.

It may be said that if this suggestion—though a very moderate one—is accepted, the revenue will come down. I admit it, but at the same time I submit that in 1867, with a slight increase of revenue, the number of cases came down by 20 per cent. The number has already come down due to the non-co-operation movement. If we increase the rate of duty, there will again be a falling-off in the number of suits. But that is no reason why we should not reduce the rate of duty. I may draw your special attention to the fact that in the High Court of Calcutta, the rate of duty on suits of whatever value—even several lakhs of rupees—there is a fixed rate of Rs. 10; but in the mufassal there is an *ad valorem* duty

and it is proposed to increase the existing rate by 50 per cent. Is it right or just that the mufassal people should be taxed in this way while the rich suitors of Calcutta will go scot-free, as the rate here is Rs. 10 irrespective of the value of suits?

Then, with regard to the fee charged in the High Court, I may draw your special attention to the opinion of the Bengal Mahajan Sabha who have complained that when no *ad valorem* fee is charged in the Original Side of the High Court, why should that fee be increased by 50 per cent. in the mufassal? That seems to be a very reasonable complaint. Then, in 1867, there was no maximum. In 1870, the maximum was Rs. 3,000. In the original Bill of 1867, the maximum was Rs. 10,000, but the Select Committee reduced it to Rs. 3,000. In the present Bill, as amended by the Select Committee, the maximum is Rs. 10,000. I have suggested a maximum of Rs. 5,000, and with reference to this point, the District Judge of Bakarganj has suggested that when we are going to increase the rate of duty by 50 per cent., we may raise the maximum by 50 per cent., so that the maximum may be Rs. 4,500, but my suggestion is a very moderate one. Instead of Rs. 10,000 as suggested by the Select Committee, I have suggested Rs. 5,000.

It may be said that if we reduce this rate of duty, for the sake of the poor litigants, there will be no surplus, so that we shall not be able to raise loans, and we shall not be able even to meet the deficit. Let us see what the position is with regard to loans. Notwithstanding the fact that in the proposed budget of the Government of India there would be a deficit of Rs 271 lakhs, yet there is a proposal to cover this deficit by raising loans. Then what is this deficit for in the budget of the Government of Bengal? It is due to the increment of salaries of the high officials; it is due to the increment of salaries of the members of the provincial judicial and executive services; it is due to the additional expenditure on police and other expenses. I think we should try our best to reduce our expenditure before we pass these taxation Bills. We have already passed the Stamp Bill, and we are about to pass this Bill. I am in favour of the Court-fees Bill, provided some relief is granted to the poor litigants. It appears that the angle of vision of the officials has changed. It is stated that this change is for the better; but so far as the provisions of this Bill are concerned, it appears, the change is for the worse, because the officials of 1870 did not venture to impose any additional duty on suits, because they were afraid lest justice might be denied to the poor people. But now proposals have been submitted to increase the rate of duty by 50 per cent., without making any exception whatever for the poor people. When I moved the resolution for the resumption of the export of rice, some of my friends were under the impression that because I am a rice merchant, I moved the resolution, but they appear to have forgotten the fact that it was in the interests of the cultivators that I moved that resolution. It was not because of any

personal interest. In this particular case, I must say that I am not a member of the legal profession.

(Here the member exceeded his time-limit.)

The DEPUTY-PRESIDENT: Your time is up, you must sit down.

Babu AMULYA DHONE ADDY: May I appeal to the members of this Council to take this amendment into their favourable consideration, the object of which is to relieve the poor litigants?

The DEPUTY-PRESIDENT: Please take your seat.

Babu NIRODE BEHARY MULLICK: I move that in clause 5, article 1, for the first three entries in the second and third columns, the following be substituted, namely,—

'When the amount or value of the subject-matter in dispute does not exceed five rupees,	Six annas.
and	
when such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees.	Six annas
and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to five hundred rupees,	Twelve annas.
and	
when such amount or value exceeds five hundred rupees, for every ten rupees, or part thereof up to one thousand rupees,	One rupee.'
and	

My amendment is substantially the same as that of Babu Amulya Dhone Addy, and I do not think it necessary to go into the details which have been submitted before this Council by Mr. Addy, but I would like to make one observation, and that is this. The other day I said, in connection with another amendment, that justice ought not to be taxed. There has already been an attack on this principle inasmuch as the receipts were larger than the expenditure, and this amending Bill is a fresh attack on this principle. This attack is so dangerous that it appears to me that it is bound to follow the denial of justice in numerous cases to the poor. My amendment is that in suits of the value of Rs. 500

or less, the rate be not increased. The other day, a circular letter was issued by the Finance Member which showed that if the rate of duty on suits of Rs. 500 or less was not increased, there would be a loss of several lakhs to Government. Now the question is which is the better and wiser course, the sacrifice of the principle thereby putting difficulties in the way of getting justice, or to sacrifice a sum of Rs. 20 lakhs? Which is the wiser course in the interests of the poor? I think it is bad business to sacrifice the principle as it were, which is one of the strongest pillars of British administration in India for a sum of Rs. 20 lakhs.

I do not wish to go into the details of the Bill, but I would like to point out that, as has been said by Mr. Addy, some relief should be given to the poor who are in these days already hard pressed, and therefore some concession ought to be made by the Government.

Maulvi HAMID-UD-DIN KHAN: I move that in clause 5, article 1, for the first three entries in the second and third columns, the following be substituted, namely,—

'When the amount or value of the subject-matter in dispute does not exceed one hundred rupees, for every five rupees or part thereof, of such amount in value,	Six annas.
and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to five hundred rupees,	Twelve annas.
and	
when such amount or value exceeds five hundred rupees, for every ten rupees, or part thereof, up to one thousand rupees,	One rupee two annas.'
and	

In support of my amendment, I beg to say a word or two only. In a matter like this, which seriously affects the poor class, one could feel inclined to say a good deal, but as it appears from our past experience that Council speeches, however effective, however eloquent, are of little use. We may feel for the poor, we may exert our utmost to better their condition, we may move heaven and earth to protect them from taxation which they cannot bear, we may weep for them but all these are in vain. Member may come, member may go, but Government will go on for ever, no matter whether the people live or die, we are now being taxed from both inside and outside. It is not only the provincial Government which is taxing the people in all possible ways that

lies in its power, but also the Imperial Government which has at last found it fit even to tax the bare necessaries of life—you are to pay tax not only when you like to please yourself by amusement, but you are to pay it even when you eat, when you dress and when you even write. Such is the excellent arrangement under which we have been living now.

Taxation is no doubt necessary in the administration of the country, but it must be done in a way so that the people for whom the administration is required may be allowed to exist. If you take away from them even the last farthing they are sure to perish. Preservation of the people in a healthy and prosperous condition is the first and foremost duty of every Government and the Government that forgets its duties forfeits its claims to respect and obedience of the people.

The present Bill has been drawn in such a way as to bring heavy economic pressure on the poorer litigant classes of Bengal. It will not only deter the people from seeking relief in courts of justice but will largely contribute to the progress of the non-co-operation movement. If the rate of court-fee be enhanced according to the scale as given in the Bill, the poorer classes will certainly have recourse to village arbitration where they will decide their cases at a much smaller cost or with almost no cost. The result of this enhancement will be ruinous to the middle class landlords and the raiyats—the middle class landlords—because they will not be able to sue their tenants for want of funds and thus fail to realise their dues, whereas their zamindars or landlords who are mostly zamindars of wealth and position, and can afford to bear the expense of litigation, without fail sue them to recover their dues. The result will be that the cost of litagation will be so very heavy that the middle class landlords will fail to pay off their decretal amount to their landlords and will thus be deprived of their holdings. The same remarks also apply to the poor raiyats. Such increased taxation will not only be hard but will be ruinous. I therefore suggest that in the interest of the poorer middle classes or the raiyats, there should be no increment of court-fees up to the limit of Rs. 500. I say Rs. 500 because an ordinary cultivator, who holds 20 bighas of land, generally pays rent of Rs. 80 besides cesses; and when arrears for four years become due, the landlord generally brings a rent suit to save limitation. At the end of the fourth year rent cesses or damages amount to about Rs. 400 to which costs, as contemplated in the present Bill being added, will swell the figure to Rs. 460 to Rs. 500. For an ordinary raiyat of this description, it is not only a hardship to pay such cost over and above the actual dues but it will result in the loss of his very holdings in the course of rent scale. Perhaps it may be argued why there should be such arrears. To this my only reply is that it is a fact of facts. Take the statistics from any district and you will find that thousands of such cases are filed in court every year—various reasons—mostly the economic ones are responsible for the defect of the tenants to make punctual and regular payment. If we increase the rate of court-fees according to the scale as given in the Bill, the estimated

increase will amount to Rs. 25 lakhs or so, as shown in the statement table, and if we allow the court-fee to remain as it was before up to the limit of Rs. 500, the probable loss will not exceed, say, Rs. 25 lakhs or so, out of an increase of Rs. 140 lakhs by taxation, a loss of Rs. 20 to Rs. 25 lakhs—that loss for the benefit of the poorer classes who are already overburdened and impoverished—is no loss at all, it is rather a gain. The loss and gain are to be judged only by the condition of the people for whom Government exists. If such a loss relieves the people to a certain extent, if such a loss gives the people some peace and rest from the harrowing thoughts of taxation which they can no longer bear, it is certainly a gain. Whereas, on the other hand, an all-round increase will deprive the people even of the poorest morsel and will reduce them to a most miserable and helpless condition so much so that many of them will altogether cease to exist. Is that a gain, Sir? Is such a gain ever desirable by any Government? The answer is quite clear. Therefore I say that there should be no increment of court-fees at least up to the suit of Rs. 500.

Babu FANINDRALAL DE: I move that in clause 5, article 1, for the first, second and third entries, the following be substituted, namely,—

'When the amount or value of the subject-matter in dispute does not exceed five rupees,	Six annas.
and	
when such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees,	Six annas.
and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to five hundred rupees,	Twelve annas.
and	

The unanimous desire of the Council that no increase should be made in the court-fees for small value suits manifested itself in the discussions during the introduction of the Bill. I regret that the Select Committee could not see their way to raise the limit up to which no increase in the present rates should be made above Rs. 50. It would have certainly been more judicious if the suits filed in the Munsif's Courts, I mean up to Rs. 1,000, were exempted from enhanced rates. The poor are given no relief here. I am no lawyer myself and I have not any definite idea about the percentages of ordinary civil suits of the value of Rs. 50 and

below. My honest belief, however, is that if this minimum limit is not raised, there will be a distinct falling of in the filing of suits and the expectations from this source will not materialise. There is a growing apathy to litigation on small matters, if to that the charges be also exorbitant, the number of such cases will certainly decrease. I therefore wish to move that there should be no increase in the court-fees when the value of the subject-matter in dispute does not exceed Rs. 500.

The increase in the maximum fee leviable seems to be out of all proportion. The proposed increase in the charges is 50 per cent. in the majority of cases, but here it is 233⅓. To be consistent, even with the principle of gradual increase in the rates for higher values, you cannot raise the maximum charge from Rs. 3,000 to Rs. 10,000. I therefore move that the word "five" should be substituted for "ten."

The following amendments were, in the absence of the members, deemed to be withdrawn:—

Maulvi SHAH ABDUR RAUF: That in clause 5, article 1, for the first three entries in the second and third columns, the following be substituted, namely,—

'When the amount or value of the subject-matter in dispute does not exceed one hundred rupees, for every five rupees or part thereof of such amount in value,	Six annas.
and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to two hundred and fifty rupees,	Twelve annas."
and	
when such amount or value exceeds two hundred and fifty rupees, for every ten rupees, or part thereof, up to one thousand rupees,	One rupee.'
and	

Maulvi MUHAMMAD RAFIQUE UDDIN KHAN: (*1*) That in clause 5, for the first three entries in the second and third columns, the following be substituted, namely,—

'When the amount or value of the subject-matter in dispute does not exceed five rupees,	Six annas.
and	

when such amount or value exceeds five rupees, for every five rupees, or part thereof in excess of five rupees, up to one hundred rupees,	Six annas.
and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to two hundred and sixty rupees,	Twelve annas.
and	
when such amount or value exceeds two hundred and sixty rupees, for every ten rupees, or part thereof, up to one thousand rupees,	One rupee two annas.'
and	

(2) that the necessary consequential amendments be made in the table of rates in the Schedule.

Maulvi YAKUINUDDIN AHMED: I move that in clause 5, article 1, for the first, second and third entries in the second and third columns, the following be substituted, namely,—

' When the amount or value of the subject-matter in dispute does not exceed five rupees,	Six annas.
and	
when such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees,	Six annas.
and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to two hundred rupees,	Twelve annas.
and	
when such amount or value exceeds two hundred rupees, for every ten rupees, or part thereof, up to one thousand rupees,	One rupee two annas.'
and	

This Court-fees Bill has come to the Council in order to remove the dead-lock about the deficit with which we have been faced. Of course, the Council has already taken into consideration the three Bills that have come here, and the Court-fees Bill is the second of such Bills. The claim which my amendment wants to exclude from the operation of the new Bill is up to Rs. 200. My idea is that those who are really poor ought to be exempted from the operation of the Bill, and those defendants who are sued, for claims up to Rs. 200 are not substantial men. Suppose a cultivator has borrowed Rs. 50; after 3 or 4 years it swells to about Rs. 150. That is generally the case, and my object is to exempt such poor people from the operation of this Bill, and with that object I have fixed the claim up to Rs. 200. If we go above Rs. 200, then the raiyat who is being sued for Rs. 300 is to some extent a substantial man. As my learned friend here has said if a raiyat with 20 bighas of land with a rent of about Rs. 40 per annum is sued, he must be regarded as a substantial man, because 20 bighas of land produce a much larger amount of money from the cultivation of paddy and other things. Of course, raiyats with 5 or 6 bighas of land only live from hand to mouth, and they ought to be taken into consideration with regard to this matter. Then again, I beg to submit that it may be said that there may not be a very large increase if we exempt Rs. 200 claims from the operation of the Bill, but there are other considerations, as my friend Babu Amulya Dhone Addy has said, namely, that the High Court claims have been altogether exempted from the operation of this Bill. There, any amount of claim is sued for with a court-fee of Rs. 10, and that, I beg to submit, is a fact which the Legislature ought to have taken into consideration when this Bill was introduced. Of course, the brunt of the effect of this Bill will be borne by the mufassal litigants, whereas the rich litigants, the richest in the land, who resort to the High Court for litigation are exempted altogether. In my opinion that should not be the case, when an amendment of the Court-fees Bill is going to be taken into consideration. To my mind, this is a reasonable proposal and should be taken into consideration.

With these few words, I place my amendment for the acceptance of the House.

The following amendments were, in the absence of the members, deemed to be withdrawn:—

Maulvi MAHAMMED MADASSUR HUSSAIN: That in clause 5, article 1, for the entries in the second and third columns, the following be substituted, namely,—

'When the amount or value of the subject-matter in dispute does not exceed one hundred rupees, for every five rupees or part thereof of such amount in value,	Six annas.

'and

when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to five hundred rupees,	Fourteen annas
and	
when such amount or value exceeds five hundred rupees, for every ten rupees, or part thereof, in excess of five hundred rupees, up to one thousand rupees,	One rupee.
and	
when such amount or value exceeds one thousand rupees, for every one hundred rupees, or part thereof, in excess of one thousand rupees, up to ten thousand rupees,	Eight rupees.
and	
when such amount or value exceeds ten thousand rupees, for every two hundred and fifty rupees, or part thereof, in excess of ten thousand rupees, up to fifteen thousand rupees,	Sixteen rupees.
and	
when such amount or value exceeds fifteen thousand rupees, for every five hundred rupees, or part thereof, in excess of fifteen thousand rupees, up to thirty thousand rupees,	Twenty-four rupees.
and	
when such amount or value exceeds thirty thousand rupees, for every one thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees,	Thirty-five rupees
and	
when such amount or value exceeds fifty thousand rupees, for every five thousand rupees, or part thereof, in excess of fifty thousand rupees,	Forty rupees.

'Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be ten thousand rupees.'

Babu SURENDRA NARAYAN SINHA: (*1*) That in clause 5, article 1, for the first, second and third entries in the second and third columns, the following be substituted, namely,—

'When such amount of value exceeds fifty rupees, for every five rupees, or part thereof, in excess of fifty rupees, up to one hundred rupees,	Six annas.
and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, up to one thousand rupees,	One rupee.'
and	

(*2*) That in clause 5, article 1, for the proviso at the end of the eighth entry in the second column, the following be substituted, namely,—

'Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be four thousand five hundred rupees.'

Babu RISHINDRA NATH SARKAR: I move that in clause 5, article 1, for the first three entries in the second and third columns, the following be substituted, namely,—

'When the amount or value of the subject-matter in dispute does not exceed five rupees,	Six annas.
and	
when such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees,	Six annas.
and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, up to one thousand rupees,	One rupee.'

In this amendment, I wish that the rate of court-fees should not be increased up to Rs. 100, and above Rs. 100 up to Rs. 1,000, I have reduced the rate by annas two only. The proposal is that it should be Re. 1-2-0; I have put it to Re. 1 and have reduced it by 2 annas. By that I understand that the proposal increase in revenue will be less by Rs. 11 lakhs;

so I think that this is a proposal in which the amount of decrease will be the least. I recommend this amendment for the acceptance of the House. It will save the poor litigants to a great extent.

Babu SATISH CHANDRA MUKHARJI: I move that in clause 5, article 1, in the first entry in the second column, for the words 'fifty rupees' the words 'one hundred rupees' be substituted, and the second entry in the second column and the words 'eight annas' in the third column be omitted;

and (*2*) that for the words 'one rupee two annas' in the third column, the words 'one rupee' be substituted;

and (*3*) that in the fourth entry in the second column, for the words 'seven thousand five hundred rupees' the words 'five thousand rupees' be substituted, and that for the words 'seven rupees eight annas' in the third column, the words 'six rupees twelve annas' be substituted;

and (*4*) that in the fifth entry in the second column, for the words 'seven thousand five hundred rupees' in the two places where they occur, the words 'five thousand rupees' be substituted, and that for the words 'fifteen rupees' in the third column, the words 'thirteen rupees eight annas' be substituted;

and (*5*) that for the words 'twenty-two rupees eight annas' in the third column, the words 'twenty rupees four annas' be substituted;

and (*6*) that for the words 'fifty thousand rupees' the words 'thirty thousand rupees' be substituted, and that for the words 'thirty rupees' in the third column, the words 'twenty-seven rupees' be substituted;

and (*7*) that after the seventh entry in the second and third columns, the following be inserted, namely,—

'and	
when such amount or value exceeds thirty thousand rupees, for every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees,	Twenty seven rupees.'

and (*8*) that for the words 'thirty-seven rupees eight annas' in the third column, the words 'thirty-three rupees twelve annas' be substituted;

and (*9*) that for the words 'ten thousand rupees' in the proviso at the end of the eighth entry in the second column, the words 'six thousand rupees' be substituted.

My amendment consists of three parts. The object of the first part is to exempt suits up to Rs. 100 from the increased court-fees. With regard to that, when the Bill was first introduced a strong feeling was

expressed by the members of the Council that suits of low value should be exempted from increased court-fees and the Select Committee accordingly exempted suits up to Rs. 50 from the increased fees. The object of the present amendment is to get exemption up to Rs. 100. Let us see what happens if that be done. From statistics furnished to the House, it appears that if my amendment is accepted, the result will be that a sum of Rs. 4,50,000 will be lost, but I would assert that as a matter of fact, if this amendment be accepted, there will not be any loss, because the Select Committee when they exempted suits up to Rs. 50, changed the scale of court-fees on suits of higher value and if the House will turn to clause 5 of the report of the Select Committee, my argument will be understood, namely,—" that in view of the heavy loss of revenue that must arise from the concession granted in regard to low value suits, there should be some increase in the fees charged on suits of a value of rupees one thousand and over, above the rates contained in the Bill. . ." and so on. So what the Select Committee gave with one hand they took away with the other. Therefore, it will follow that, if my amendment is accepted, Government will not be a loser, and the object with which this Bill has been introduced will not be frustrated.

There is another point. It is to save suits of low value from the increased rate. I have not been able to understand the exact significance of the phrase " suits of low value." I can well understand suits of low value if by that is meant that class of suits in our law courts which we call Small Cause Court suits, and according to the law of the country they are suits up to Rs. 100. These are suits of the lowest value in the lowest court of the country. Therefore, you cannot call suits of Rs. 50 only suits of low value. Moreover, this exemption up to Rs. 50 will not affect the many suits most of which are between Rs. 50 and Rs. 100, because in cases of loans of Rs. 30 or Rs. 40, the interest as well as the principal will go up to more than Rs. 50. The object of this amendment is to get this exemption up to Rs. 100 without restricting it to Rs. 50. I therefore appeal to the Hon'ble Mr. Kerr to consider this question and see that this amendment is accepted.

Then as regards the second part of this amendment, the increase recommended by the Select Committee is 50 per cent.; My amendment recommends 33 per cent. It may be said that the acceptance of my amendment will frustrate the whole object of the Bill. To that my reply is that this Act is only touching one portion of the law courts of the country; I mean the mufassal courts, and the Apellate Side of the High Court. This Bill does not touch the Original Side of the High Court. If this amendment is accepted, I submit that the deficit may very well be recouped by an imposition of an *ad valorem* court-fee on suits in the Original Side of the High Court, and if that be done, it is reasonable to suppose that a large sum will be obtained by Government. We have not heard any explanation why the Original Side of the High Court should not be touched. You have tapped

the Appellate Side of the High Court, but why not tap the Original Side of the High Court also? As a matter of fact, those who go there for justice are best able to bear the burden of its expenses. Moreover, they have hitherto escaped the payment of *ad valorem* court-fees on their suits; therefore, justice demands that one section of the litigant public should not be taxed at the expense of the other. The mufassal litigants on the Appellate Side are made to pay, but I do not understand why the people who go to the Original Side of the High Court should not pay. If my amendment is accepted, the deficiency will be more than recouped by the court-fees in the Original Side of the High Court.

My third point is—What should be the maximum? The litigant public had all along been thinking that Rs. 3,000 is the maximum court-fee that can be levied. Now the Select Committee wants to do away with this maximum. This is a privilege which the public had been enjoying for a long time, and there is no reason why this privilege should be withdrawn by a stroke of the pen. We find from the statements that Rs. 61,600 is the amount that is expected to be received by doing away with this maximum. I have proposed that instead of Rs. 10,000, Rs. 6,000 should be the maximum. As a matter of fact, if this amendment is accepted, the revenue will not be greatly lessened nor will it unnecessarily add to the burden of the litigant public.

SHAH SYED EMDADUL HAQ spoke in Bengali. The translation of his speech is as follows:—

I move that in clause 5, article 1, for the first four entries in the second and third columns, the following be substituted, namely,—

'When the amount or value of the subject-matter in dispute does not exceed five rupees,	Six annas.
and	
when such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees,	Six annas.
and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, up to two hundred rupees,	Fifteen annas.
and	
when such amount or value exceeds two hundred rupees, for every ten rupees, or part thereof, up to five hundred rupees,	One rupee.
and	

when such amount or value exceeds five hundred rupees, for every ten rupees, or part thereof, up to twelve hundred and fifty rupees,	One rupee two annas.
and	
when such amount or value exceeds twelve hundred and fifty rupees but does not exceed thirteen hundred rupees, for every fifty rupees, or part thereof,	Three rupees twelve annas.
and	
when such amount or value exceeds thirteen hundred rupees, for every one hundred rupees, or part thereof, in excess of thirteen hundred rupees, up to seven thousand five hundred rupees,	Seven rupees eight annas.'

This motion is purely meant for the poor. I have already delivered a long speech when moving amendment No. 7, and advocated the enforcement of this law for a period of two years only. So I do not intend to worry the members of this Council by going over the same ground again. It is not my desire to increase the charges on court-fees up to Rs. 100. But I should like very much that the charges be increased up to a limit of Rs. 500. My proposals tally with that of the Government to the extent of Rs. 1,300. Should my scheme be accepted *in toto*, there will be a net reduction by Rs. 8 or 9 lakhs. This is a trifling matter. There will be a net reduction by Rs. 3 lakhs if no increase is made to the extent of Rs. 100. The House, I hope, will give very careful consideration to this matter.

Babu BHISHMADEV DAS: I move (*1*) that in clause 5, article 1, second column, in the first entry, for the words ' fifty rupees ' the words ' one hundred rupees ' be substituted and the second entry in the second and third columns be omitted;

and (*2*) that in clause 5, article 1, second column, in the third entry, for the words ' up to one thousand rupees ' and the words ' one rupee two annas ' in the third column opposite, the following be substituted, namely,—

'Up to five hundred rupees,	One rupee.
when such amount or value exceeds rupees five hundred, up to one thousand rupees for every ten rupees, or part thereof,	One rupee eight annas.'

The Select Committee in their report have recognised the necessity of exempting suits up to the value of Rs. 50 from the operation of the Bill, and I think the same consideration should have been given to suits up to the value of Rs. 100 at least. These petty suits are generally brought against poor agriculturists for rent, debt, or damages, etc. These people cannot bear further taxation. These suits are instituted against them for their inability to pay their arrears of debts not more than Rs. 100.

The suits up to Rs. 500 are also generally brought against men of moderate means, so I propose that up to that amount a lower rate should be adopted and the loss occasioned thereby may be compensated by higher rate regarding suits of higher value.

I hope the Hon'ble Member in charge will kindly accept this amendment if the House supports it.

The following amendment, standing in the name of Rai Sahib Panchanan Barma was, in the absence of the member, deemed to be withdrawn:—

(*1*) That in clause 5, in the first entry, in the second column of article 1, for the word ' fifty ' the words ' one hundred ' be substituted, and that the second entry in the same column, together with the words 'Eight annas ' in the third column opposite to this entry, be omitted;

and (*2*) that in third entry in the second column of the same article the words ' in excess of one hundred rupees ' be inserted after the words ' for every ten rupees or part thereof, ' and before the words ' up to one thousand rupees.'

Rai MAHENDRA CHANDRA MITRA Bahadur: I move (*1*) that in the third column of article 1 in clause 5, for the words ' One rupee two annas, ' ' Seven rupees eight annas, ' ' Fifteen rupees, ' ' Twenty-two rupees eight annas, ' Thirty rupees, ' and ' Thirty-seven rupees eight annas ' the words ' One rupee, ' ' Six rupees four annas, ' ' Twelve rupees eight annas, ' Eighteen rupees twelve annas, ' ' Twenty-five rupees' and ' Thirty rupees, ' respectively, be substituted;

and (*2*) that in the proviso to the eighth entry of article 1 in clause 5, for the words ' Ten thousand ' the words ' Five thousand ' be substituted.

It is not easy to say definitely as to where lies the difficulty of meeting the points raised by the Select Committee. The Select Committee thinks in one way and others in a different way. Consequently, we are to depend upon some broad principles. The first principle is that enactments of this kind ought to be conducive to the interest and happiness of the raiyats. Whether this has been done is a proposition for the House to consider. The second principle, which I enunciate, is that whenever drastic attempts are made to change the law, it is necessary to refer to the previous laws in force. My submission is that this point has not been noticed by the Select Committee and even if it did, it differed to a considerable extent.

With regard to the first principle, which I have submitted, it is necessary to remember that many rent suits are instituted in the mufassal courts and if the court-fee is raised, as suggested by the Select Committee, the result will be that you attack the raiyats. They will have to pay very high amounts as there are many rent suits. So I submit that you should show some consideration for them. If you think that by this means you will get increased revenue from the raiyats, you are labouring under a mistake. The Hon'ble Member is in possession of all materials on the point, and he can satisfy himself whether Rs. 50 or Rs. 100 ought to be the limit, but my submission is that the raiyats will be greatly affected if the court-fee is raised as suggested by the Select Committee. I contend, therefore, that such a provision will not be conducive to the happiness of the people. When looking into the history of the several enactments, I noticed that when the Act of 1870 came into operation, the chief reason for keeping the court-fee low was that stringent provisions should be omitted. There was a report of a Committee consisting of Justice Prinsep, Justice Jackson and another very distinguished civilian. The report of these officers culminated in the introduction of the Act of 1867, and within a very short time the Legislature thought that it was a mistake to pass that Act. Consequently, there was a change in the law and I submit, with respect, that a similar mistake is going to be committed again. So I give this note of warning to the Council that if the stringent provisions be accepted, there will be a falling-off of revenue, and there will be no increase of revenue. The learned Finance Member may think that I am labouring under a misapprehension, but I am sure that hereafter he will be in a position to judge whether the suggestion which I am now making is correct or not. I am led to prophesy that there will be a falling-off of revenue because stringent steps are going to be taken in this connection. I solicit the Council to consider for a moment that the suggestion which I have made is not very disproportionate to the suggestion made by the Select Committee. I submit that the reductions I have suggested to the Council are not unreasonable. The reasonableness or unreasonableness of them depends on the view the Council takes. But I suggest that there should be a reduction on this scale.

One word more as to the proviso. An attempt was made previously to raise the maximum court-fee to Rs. 10,000, but that was abandoned, and Rs. 3,000 was accepted. We notice again that the same fee of Rs. 10,000 is proposed as the maximum, but I suggest that it should be Rs. 5,000 only. Perhaps the Select Committee thought that this raising of the maximum fee would not affect the poor; and that no harm will be done if the present maximum of Rs. 3,000 be raised to Rs. 10,000. But if this amount be raised, the litigant public will be greatly affected. I therefore ask the Council to consider the suggestions I have put forward on these fiscal proposals.

Babu ANNADA CHARAN DUTTA: I move that in clause 5, after article I, the following proviso be added, namely,—

'Provided also that in money and small cause courts suits for value between one hundred and five hundred rupees the fee payable shall be fifteen annas for every ten rupees.'

In pressing my amendment, I do not forget that Government needs money and rather badly, and it has to find it anyhow from whatever source it can. When Government is bent upon having money perhaps no opposition will be of any avail. That is why one would like to submit to all taxation measures with rather philosophical *nonchalance*. Still of the three taxation measures now before the House, the one which is under discussion and regarding which my amendment has been put forward will be the most oppressive upon the poorest section of the country. Already justice has been very much taxed and it is an open secret—nay, notorious—that a long purse, too often than not, decides and diverts the course of justice. Therefore, we should not put such a bar to the doors of law which will really preclude the poorer section from seeking justice. The section I refer to is the section which has no flesh and blood and in which only some dry bones remain. These taxation measures will put the bones on the rack for oosing out some drops of blood that may yet remain in some parts. Therefore, lest the bones break, we should grease them. I therefore suggest that instead of raising the fee by 50 per cent. Government ought to do so by 25 per cent. My amendment is that fifteen annas should be charged for every ten rupees up to Rs. 500. I have got an additional ground—it is that most of the suits up to Rs. 500, which are covered by my amendment, are summary suits which are tried in the Small Cause Court. In the mufassal the sub-judges have a right to try cases up to the value of Rs. 500 and munsifs up to Rs. 150 to Rs. 200 as small cause court suits. These are tried as summary suits and very little time and trouble is required to dispose of them. It is but equitable and logical that they should not be taxed as ordinary contested civil suits. That is my additional reason for suggesting that the proposed increase of 50 per cent. be made 25 per cent. Government has already been kind enough to recognise the necessity of being a little lenient up to a certain limit—Rs. 100 in the matter of court fees and up to Rs. 200 in the matter of stamps. It may be due to sympathy, or it may be due to expediency, or both. Whatever may be the controlling factor, the necessity exists for a light or delicate handling at the lower rung. The question therefore is, what should be the limit and how far should we go. The borrower of Rs. 200 is certainly better-off than the debtor who cannot pay the same, yet the court-fee will ultimately be realised from these men after the decree is passed in the court. I therefore put the limit at Rs. 500 which is the usual limit of summary jurisdiction as well in the mufassal courts. For all these reasons, the principle underlying my amendment is the most acceptable

one; at the same time, recognising as I do that we have been called upon to pass these taxation measures which are rather unpopular things, we should not shirk the responsibility of raising money from the sources which we have put forward before the Council and the country in the shape of this Court-fees Bill. Therefore, instead of subscribing to the amendments which have been heretofore moved and which would have involved a lowering of the income by Rs. 10 or Rs. 20 lakhs, I move my amendment which will only result in a reduction of about Rs. 3 or 5 lakhs. That is a sum which, I think, even in the present circumstances, we can give up. It appears from the calculation of the estimated income from the three taxation Bills that, besides meeting the deficit, there will be a surplus of Rs. 20 lakhs and to give up Rs. 3 to 5 lakhs out of this sum will not be much. We would still have Rs. 17 or Rs. 15 lakhs left to us. After giving relief to the poorer section of the people there will still be a sufficient margin. Government will still be left with a surplus to float a loan policy and the banks will not object when there will be an excess of income over expenditure.

The DEPUTY-PRESIDENT: You also can take up the other amendment now.

Babu ANNADA CHARAN DUTTA: Let me finish the first.

On account of a certain policy which has been followed over a century by Government, the people in general have been very much impoverished. It has almost reached the breaking point. If you want to extend it still further, it will break. The Basilp-plant thrives upon dead men's bones, but even this plant dies when the marrow inside is exhausted. Therefore, we ought to take this warning in due time, and I hope and trust that this amendment will be accepted, especially as it will not cost very much loss of revenue.

I have finished this amendment, and if this amendment is accepted, I will not move the other amendment. If this is lost then it will be necessity for me to move the other.

The DEPUTY-PRESIDENT: You can now speak on the other amendment.

Babu ANNADA CHARAN DUTTA: I am sorry I have not been able to follow your ruling because my next amendment is meant as a conditional amendment if my present is not carried. If I am to speak on my next amendment then I shall have to do so on the supposition that my present amendment will be lost.

The DEPUTY-PRESIDENT: You can take it up as an alternative amendment.

Babu ANNADA CHARAN DUTTA: Very well, Sir. I must bow down to the ruling of the Chair.

My next amendment is as follows:—

"That in clause 5, article 1, for the third entry in the second and third columns the following be substituted, namely,—

'and	
when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one hundred and fifty rupees,	One rupee ten annas.
and	
when such amount or value exceeds one hundred and fifty rupees, for every ten rupees, or part thereof, up to one thousand rupees.	One rupee two annas.'

In putting forward my next amendment, at the very outset, I had better explain that there will be no necessity of moving this amendment in case my amendment already moved, is carried, because the former is really included in the latter, or in other words, the relief which I ask under the former amendment is larger than what I ask in the present one. Subject to these observations, I put forward my next amendment as an alternative amendment. Regarding the wording of the amendment, I had better explain one thing. It has been brought to my notice by certain members of the Council that whereas the Bill provides Re. 1-2-0 as court-fee for Rs. 10 as against suits over Rs. 100 in value, I have put Re. 1-10-0 instead. They have asked whether I was going to compensate the loss which has been accepted by Government for suits below Rs. 100 by adding another 0-8-0 to Re. 1-2-0. I am afraid the attention of my friends was not drawn to the fact that the Bill as it stands takes Re. 1-2-0 as a "flat rate" in the words of Babu Amulya Dhone Addy. I am putting the sum of Re. 1-10-0 for each Rs. 10 over Rs. 100 up to Rs. 140. My friends will at once understand the meaning of the amendment by its result. In the Bill you will find in the Schedule that the court-fee payable upon suits of Rs. 100 has been put at Rs. 8-12-0 and—

From Rs.	101	to Rs.	110	at Rs.	12-6-0,
„ „	111	„	120	„	13-8-0,
„ „	121	„	130	„	14-10-0,
„ „	131	„	140	„	15-12-0, and
„ „	141	„	150	„	16-14-0.

Now taking my starting point from Rs. 8-12-0, the court-fee payable upon suits of Rs. 100, if you add only Re. 1-10-0 for the additional Rs. 10 or part thereof, it will come to Rs. 10-6-0 instead of Rs. 12-6-0 for suits valued up to Rs. 110. So the amount will be less than the amount proposed in the Bill by Rs. 2. Similarly, instead of Rs. 13-8-0, my

amendment wants to put in Rs. 12 for suits of the value of Rs. 111 to Rs. 120, that is to say, a reduction of Re. 1-8-0. And for suits from Rs. 121 to Rs. 130, I propose Rs. 13-10-0 instead of Rs. 14-10-0, a reduction of Re. 1, and for suits from Rs. 131 to Rs. 140, I propose Rs. 15-4-0 instead of Rs. 15-12-0, a reduction of 8 annas. For suits of Rs. 141 to Rs. 150, I have kept the original amount of Rs. 16-14-0. This will at once explain that instead of trying to enhance the rates which are proposed in the Bill, I have really tried to lower them and the reason is not far to seek. My proposal, if accepted, will do away with the big jump between Rs. 8-12-0 for Rs. 100 suits and Rs. 12-6-0 for suits of Rs. 101 to Rs. 110, a difference of Rs. 3-10-0, as soon as you exceed the value of the suit by a rupee. Experience in law courts shows that no suitor will lay out Rs. 3-10-0 for the Rs. 10 after Rs. 100, and he will rather abandon a portion of his claim than risk payment of a court-fee quite disproportionate to the amount sued for. Therefore, by means of this big jump, you really show on paper that it will be a source of additional revenue but as a matter of fact this will ultimately lead to a loss of revenue. What I propose is a gradual increase by means of which the suitors will be tempted not to surrender any portion of their claim. If this is accepted, the loss of revenue will not be more than a few thousands of rupees, while it will be a source of relief to the poorer suitors. On the other hand, we must take into consideration the factor that the suitors will no longer be tempted to abandon any part of their claim but will really pay the additional fee, and this will more than compensate any loss of revenue on account of the reduction proposed. Therefore, the result will be rather more satisfactory from the point of view of Government revenue too.

With these observations, I hope and trust the Council will accept my alternative amendment at least.

Rai RADHA CHARAN PAL Bahadur: I leave it to the Hon'ble Member in charge of the Bill to say whether he is impressed with the opposition that has been raised in regard to the vital portion of the Bill—I mean clause 5 of the Bill. The proposal, as far as has been detailed in that clause, has, if I may quote the expression, which is now a historic expression and which was used in the days of the Boer struggle, "staggered humanity." I find that even such a calm and dispassionate body as the Bengal Chamber of Commerce—who, I believe, will not be charged with any intention of wrecking the Reforms scheme, though it may only so happen that some of their members may not be very much in love with the Reforms scheme, to quote another favourite expression, of bringing the Government to a deadlock—has stated deliberately in the first place, in the very lucid opinion which they have given, that within the short time at their disposal, it is not possible to closely scrutinise the Bill and to make an exhaustive criticism of the several clauses of the Bill That has also been my complaint from the very beginning

and I admire the cleverness of the Hon'ble Member in charge of the Bill. There are three taxation Bills, there is the Budget, there are Supplementary grants— all these to absorb the attention of the House, and at this psychological moment, he has brought this measure, involving permanent burden on the people, so that it might be passed as smoothly as it now appears to be passing through the distracted Council to-day. The Bengal Chamber of Commerce has stated that "the receipts from court-fees were so large that litigants not only paid, by their fees, for the maintenance of the civil courts, but returned in addition very large profits to the State. It is proposed by the present Bill to increase these large profits. And to the Committee of the Chamber, who have examined the matter carefully, it certainly appears to be a question for consideration whether the Government ought further to tax litigants, in order to raise funds for purposes other than the proper administration of justice." And lastly ,they observe that "they consider that the cost of litigation is already sufficiently high, and that the contemplated increase will give additional cause for complaint." When we give expression to the views or rather to the complaints of our countrymen, some of us are called extremists, some ultra-racial, and others as not very sympathetic towards the Reforms, and all these epithets are lightly applied to us; but here is a body of calm level headed business men who have stated their own conviction after a number of years' residence in this country that this high and exorbitant increase in the court-fees will aggravate the complaint of the public and will press very hard upon the people. But the Hon'ble Member will perhaps say that there is no help, we must have money, plead you as much as you can. The number of amendments and the speeches made to-day will show that the people very much resent the heavy taxation that is proposed in this Bill, especially in this clause. An all-round 50 per cent. increase is certainly very heavy, and it will virtually mean a denial of justice, a denial of admission to the British Courts of justice, and I am sure that such a contingency will not be hailed by the British public. I am sure the Hon'ble Member in charge of the Bill will himself feel this when he passes the Bill and sees that discontent in going deeper and deeper in the country and that he was instrumental in forcing it down the throats of the people.

As regards some of the amendments, I am greatly in sympathy with the amendment that has been proposed by Babu Amulya Dhone Addy. He has bestowed considerable pains upon this provision of the Bill, and there are also other amendments, which are more or less on the same line, and all speak on behalf of the poor litigants. Now, with regard to the Rs. 500 limit, I desire to point out that it is not merely in the case of regular complaints that the tax is raised from Rs. 36 to Rs. 56, but also in the case of appeals, the same amount will have to be paid. There are cases, as we all know, in courts of law where a decree is obtained behind a man's back, and the party against whom the decree is made will have to pay another Rs. 56 and, if the plaintiff loses, he will have to

pay more than one-fifth of the sum in the shape of court-fees, not to speak of the fees he has to pay to the grabbing lawyers. I hope no offence will be taken by my lawyer friends, who, I know, have increased their fees tremendously. Not only has a person to pay this enhanced court-fee, but from the moment he enters a British court of law, he has to pay at every step—either for an affidavit, or an application, or a copy. I hope the Hon'ble Member will kindly consider not the question of revenue only but also the question of the hardship that will be inflicted on the people. After the Wahabi rebellion, when Lord Northbrook moved for an extensive reduction of taxation, Lord Hewer, who was then Governor of Madras, said, " we must cut out all public works—public content is of greater asset to the British empire than public works." That is what I find in one of the old records which I possess. I think the Hon'ble Member will himself admit that public content—public satisfaction is of greater value than the public revenue which he wants to raise by taxing the people. I yet hope that he will kindly consider the various amendments that have been moved and not brush them aside. He can do so, because he has got the power—the power behind the throne Look at the attendance to-day, because there is nothing for the newspapers to report except the humdrum amendments; you can carry everything at your will, but yet I hope that for the credit of the British Government you will at least consider the amendments that have been proposed to reduce the exorbitant increase in the fees.

MINISTER in charge of DEPARTMENT of EDUCATION (the Hon'ble Mr. P. C. Mitter): I desire to make a suggestion for the consideration of the House, as I find that many of my friends here are anxious that there should be further exemptions in favour of the poorer litigants. I suggest the following for their consideration. No increase up to Rs. 75: at the present moment there is no increase up to Rs. 50: that means, as the House is aware, a loss of Rs. 3,60,000. My further proposal is—no increase up to Rs. 75, then an increase of 33⅓ per cent. up to Rs. 100; according to the recommendations of the Select Committee the increase of 33⅓ per cent. is from Rs. 50 to Rs. 100 and an increase of 50 per cent. above Rs. 100. I now suggest that beyond Rs. 100 the amendment No. 43 of Babu Annada Charan Dutta may be accepted. This means instead of a sudden jump from Rs. 8-12-0 to Rs. 12-6-0, Rs. 8-12-0 proposed for Rs. 100 and Rs. 12-6-0 proposed for Rs. 110, the rate will be Rs. 10-6-0: instead of Rs. 13-8-0 the rate should be Rs. 12-0-0 for Rs. 111 to Rs. 120: instead of Rs. 14-10-0 the rate should be Rs. 13-10-0 for Rs. 121 to Rs. 130 and instead of Rs. 15-12-0 the rate should be Rs. 15-4-0 for Rs. 131 to Rs. 140: and the same fee as in the Bill for Rs. 141 to Rs. 150. This is as much as we can possibly go having regard to the financial position of the province. If the House will accept these suggestions, we may come to an agreement on those lines.

MEMBER in charge of DEPARTMENT of FINANCE (the Hon'ble Mr. J. H. Kerr): In view of the very general support which the Hon'ble Mr. Mitter's suggestion has obtained in the House, I ask permission formally to move an amendment to give effect to the Hon'ble Minister's suggestion. My motion will be that in clause 5, in the second column, in the first and second entries, the words "Seventy-five" should be substituted for the word "Fifty" wherever it occurs.

For the third entry in the second and third columns the following be substituted:—

"When such amount or value exceeds Rs. 100" and so on as in the motion of Babu Annada Charan Dutta.

Before coming to a final decision on the other amendments, I would ask the House to recollect the reductions that have already been made in the Select Committee. Babu Amulya Dhone Addy calls this reduction nominal. It will come to something over Rs. 5 lakhs. That may be nominal to Babu Amulya Dhone Addy but it is not so to the Bengal Government. We have as a matter of fact gone very carefully into this matter, and we should like to reduce the hardship to the poorer classes as much as we possibly can, but some of the amendments which have not yet been withdrawn involve very large loss of revenue indeed. For instance, the first amendment Nos. 23-25 which asks for a total exemption up to Rs. 1,000, will involve a loss of Rs. 27 lakhs. Mr. Addy's amendment which proposes exemption up to Rs. 500 and 25 per cent. between Rs. 500 and Rs. 1,000 will involve a loss of 24½ lakhs. Maulvi Hamid-ud-din Khan's amendment involves exemption up to Rs. 500. That means a loss of Rs. 22 lakhs and so on.

I think the Council will realise that these proposals involve reductions which we cannot reasonably grant having regard to the object with which these taxation Bills have been brought before the Council. The amendment which I have just moved will exempt all suits up to Rs. 75, and the increase up to Rs. 150 will be extremely moderate. Above Rs. 150 we propose to take the full 50 per cent. I do not think that this is unreasonable, and I trust the Council will see its way to accept it.

Babu JATINDRA NATH BASU: Having regard to the amendment proposed by the Hon'ble Mr. Kerr on the suggestion of the Hon'ble Mr. P. C. Mitter, I do not think that I have much to say. I only desire to correct a misapprehension. Babu Satish Chandra Mukharji has complained in his speech that the Original Side of the High Court is not touched by this Act. I do not think that my friend has quite realised the position. I desire to point out that on the Original Side of the High Court, the institution fee is not the only fee that has got to be paid but at every step heavy court-fees have to be paid. I desire further to point out, that the High Court, under the Government of India Act and the charter under which it is established, is authorised

to lay down its own scale of fees and that this Council has no power to interfere. Under section 106 of the Government of India Act it has no jurisdiction to interfere with the fees laid down by the High Court. My friend will have to go up to His Majesty in order to have the charter of the High Court altered and to take away the authority under which the High Court lays down its own scale of fees. That is all I have to say.

Mr. J. CAMPBELL FORRESTER: Sir, is it necessary that all those amendments which had to be withdrawn should be formally withdrawn by leave of the Council?

The DEPUTY-PRESIDENT: Yes, the motions for withdrawal must be put before the House in all cases.

The amendment standing in the name of Maulvi Wasimuddin Ahmed was then put and a division was taken with the following result:—

AYES.

Addy, Babu Amulya Dhone.
Ahmed, Khan Bahadur, Maulvi Wasimuddin.
Haq, Shah Syed Emdadul.
Khan, Maulvi Hamid-ud-din.
Pal, Rai Bahadur Radha Charan.

NOES.

Ahmed, Khan Bahadur, Maulvi Emaduddin.
Ahmed, Maulvi Yakuinuddin.
Ali, Munshi Amir.
Ali, Munshi Ayub.
Azam, Khan Bahadur Khwaja Mohamed
Banerjea, the Hon'ble Sir Surendra Nath.
Band, Mr. R. N.
Basu, Babu Jatindra Nath.
Bice, Mr. E. E.
Bompas, Mr. C. H.
Bose, Mr. S. M.
Carey, Mr. W. L.
Chaudhuri, Maulvi Shah Muhammad.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
Cohen, Mr. D. J.
Crawford, Mr. T. C.
Das, Babu Bhishmadev.
Das Gupta, Rai Bahadur Nibaran Chandra.
De, Babu Panchugopal.
Deare, Lieutenant-Colonel S. H.
Dutt, Mr. Ajoy Chunder.
Dutta, Babu Annada Charan.
Duval, Mr. H. P.
French, Mr. F. C.
Forrester, Mr. J. Campbell.
Ghose, Mr. B. C.
Goode, Mr. S. W.
Gupta, Mr. J. N.
Hephyne, Mr. W. S.
Huntingford, Mr. G. T.
James, Mr. R. H. L. Langford.
Janah, Babu Sarat Chandra.
Kerr, the Hon'ble Mr. J. H.
Khan, Mr. Razaur Rahman.
Lang, Mr. J.
Law, Raja Reshee Case.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble the
Mallik, Babu Surendra Nath.
Mitra, Rai Bahadur Mahendra Chandra.
Mitter, the Hon'ble Mr. P. C.
Mukherjee, Babu Nitya Dhone.
Rahim, the Hon'ble Sir Abd-ur-
Ray, Rai Bahadur Upendra Lal.
Ray Chaudhuri, Mr. Krishna Chandra.
Roy, Babu Jogendra Nath.
Roy, Mr. Bijoy Prosad Singh.
Roy, Rai Bahadur Lalit Mohan Singh.
Sarkar, Babu Rishindra Nath.
Skinner, Mr. H. E.
Spry, Mr. H. E.
Stephenson, Mr. H. L.
Suhrawardy, Dr. A.
Suhrawardy, Dr. Hassan.
Suhrawardy, Mr. Huseyn Shaheed.
Swan, Mr. J. A. L.
Walsh, Mr. C. P.
Wheeler, the Hon'ble Sir Henry.
Wordsworth, Mr. W. B.

The Ayes being 5 and the Noes 58, the motion was lost.

The amendment standing in the name of Babu Amulya Dhone Addy was then put and a division taken with the following result:—

AYES.

Addy, Babu Amulya Dhone.
Ahmed, Khan Bahadur, Maulvi Wasimuddin.
Haq, Shah Syed Emdadul.
Khan, Maulvi Hamid-ud-din.
Maitra, Dr. Jatindra Nath.
Pal, Rai Bahadur Radha Charan.

NOES.

Ahmed, Maulvi Yakuinuddin.
Ali, Munshi Ayub.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, the Hon'ble Sir Surendra Nath.
Band, Mr. R. N.
Basu, Babu Jatindra Nath.
Biss, Mr. E. E.
Bompas, Mr. C. H.
Bose, Mr. S. M.
Carey, Mr. W. L.
Chaudhuri, the Hon'ble Nawab Saiyid Nawab Ali, Khan Bahadur.
Cohen, Mr. D. J.
Crawford, Mr. T. C.
Das, Babu Shishmadev.
Das Gupta, Rai Bahadur Nibaran Chandra.
De, Babu Panindralal.
Deare, Lieutenant-Colonel E. H.
Dutt, Mr. Ajoy Chunder.
Dutta, Babu Annada Charan.
Duval, Mr. H. P.
French, Mr. F. C.
Forrester, Mr. J. Campbell.
Ghose, Mr. D. C.
Goode, Mr. S. W.
Gupta, Mr. J. N.
Hopkyns, Mr. W. S.
Huntingford, Mr. G. T.
James, Mr. R. N. L. Langford.
Janah, Babu Sarat Chandra.
Kerr, the Hon'ble Mr. J. H.
Khan, Mr. Razaur Rahman.
Lang, Mr. J.
Larmour, Mr. F. A.
Law, Raja Reshee Case.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble the
Maitk, Babu Surendra Nath.
Mitra, Rai Bahadur Mahendra Chandra.
Mitter, the Hon'ble Mr. P. C.
Mukherjee, Babu Nitya Dhone.
Mukherji, Professor S. C.
Rahim, the Hon'ble Sir Abd-ur-
Ray, Rai Bahadur Upendra Lal.
Roy, Babu Jogendra Nath.
Roy, Mr. Bijoy Prosad Singh.
Sarkar, Babu Rishindra Nath.
Skinner, Mr. H. E.
Spry, Mr. H. E.
Stephenson, Mr. H. L.
Suhrawardy, Dr. A.
Suhrawardy, Mr. Huseyn Shaheed.
Swan, Mr. J. A. L.
Walsh, Mr. C. P.
Wheeler, the Hon'ble Sir Henry.
Wordsworth, Mr. W. C.

The Ayes being 6 and the Noes 54, the motion was lost.

The amendment standing in the name of Maulvi Hamid-ud-Din Khan was then put and lost.

The amendment standing in the name of Maulvi Yakuinuddin Ahmed was then put and lost.

The amendment standing in the name of Shah Syed Emdadul Haq was then put and lost.

The rest of the amendments which were moved were then, by leave of the Council, withdrawn.

The motion of the Hon'ble Mr. Kerr and the alternative amendment by Babu Annada Charan Dutta were then put and agreed to.

The DEPUTY-PRESIDENT: The question is that clause 5 as amended stand part of the Bill.

The motion was put and agreed to.

Clause 6.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 6 stand part of the Bill.

Babu FANINDRALAL DE: I move that clause 6 be omitted.

The increases in fees provided in clause 6 of the Bill for copy of translation of judgments, seems to be absolutely undesirable. The litigants have already paid for the normal charges in the suit and it will be positively unjust to require them to pay for a copy of the decisions, more than what is actually needed for the purpose. The existing rates appear to be quite sufficient and I move that clause 6 of the Bill be deleted.

SHAH SYED EMDADUL HAQ spoke in Bengali. The translation of his speech is as follows:—I move that in clause 6 (*b*) the portion from the beginning up to the words 'Twelve annas shall be substituted and' shall be omitted.

I do not like to take up the time of the Council, but simply move my motion.

The Hon'ble Mr. J. H. KERR: These amendments refer to the court-fees payable for a copy of the translation of a judgment not having the force of a decree. We propose to make a 50 per cent. increase on this item and I do not think it will create any serious hardship. I cannot really see why the Council, having accepted the view that a general increase in court-fees is justifiable, should think that this particular item should be exempted. If we start exempting items like this I do not see how we can reasonably increase any fees at all. We have already accepted the most important provisions of the Bill, and I do not think that we should start throwing out these trivial and petty items.

The second amendment proposes, as far as I can make out, that no increase should be imposed above a certain amount. But this, if accepted, would give rise to complications and I do not think that the mover has given any substantial reason in support of his suggestion. I therefore oppose it.

These motions were then put and lost.

The DEPUTY-PRESIDENT: The question is that clause 6 stand part of the Bill.

The motion was put and agreed to.

Clause 7.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 7 stand part of the Bill.

The following amendment was withdrawn:—

Babu RISHINDRA NATH SARKAR: That in clause 7, for the entries in both columns, the following be substituted, namely,—

'When such amount or value exceeds five thousand rupees, but does not exceed fifteen thousand rupees,	Two and a half per centum on such amount or value.
and	
when such amount or value exceeds fifteen thousand rupees, but does not exceed fifty thousand rupees,	Three per centum on such amount or value.
and	
when such amount or value exceeds fifty thousand rupees, but does not exceed one hundred thousand rupees,	Four per centum on such amount or value.
and	
when such amount or value exceeds one hundred thousand rupees,	Five per centum on such amount or value.'

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in clause 7, in the third entry of the first column, the words 'but does not exceed a lakh of rupees,' and in the fourth entry of the first column, the word 'and' preceding it and the second column opposite to this entry the words 'five per centum on such amount or value' be omitted.

Sir, it is a very important question because we have to consider the duty on probate. Originally the duty was a very reasonable sum. In article 11 we notice that there is a provision for probate and letters of administration. It was only two per cent. of the amount. After that there was another Act and this portion of the Act was amended by Act VII of 1910 and the duty was increased. Now we notice again that there is a further increase and my submission to the Council is for a reduction. Now, so far as the first column and the first entry are concerned, it is all right, but in dealing with the third column, we notice the words 'above Rs. 5,000 but does not exceed a lakh of rupees.' My submission to the Council is that these words be omitted. Now regarding probate fees, it is necessary to notice that those fees ought to be reasonable. I put a limit to it. I say so far as the duty is concerned, it was 4 per cent. of such amount. But the Council will notice that the

Select Committee has fixed 5 per cent. of such amount. My submission is that it is unreasonable. The man is dead and his estate is bound to be administered by his successor.

Because a man is dead and another man happens to administer his estate, is it reasonable on the part of Government to tell him that he should pay a very high rate? It was never thought of when Act VII was in operation, consequently my humble submission is that the Council should consider whether this duty should be increased. If you say that the loss to Government will be heavy and the duty should therefore be increased, I would ask you to remember that this increase will be a source of great hardship to the people. In the old days when we were under the great Moghul Government what was the *nazarana*? the *nazarana* was a gold mohur or so, but now-a-days a successor of a deceased person has to take a certificate from the court and not from the King-Emperor, and for this he has to pay a penalty of 5 per cent. I consider this to be an unreasonable increase but we are placed entirely in the hands of those who draft the law. We come forward to oppose the provisions in the law which we consider will operate harshly on those who are concerned. It may be argued that where there are rich men who have to administer their estate they ought to pay and they must pay, or if it be the will of the State that they must pay, they are helpless. In such matters the framers of the law or the Select Committee ought to consider that one does not take out letters of administration or probate unless he experience some difficulty in realising rents or that he has to institute suits for the recovery of rent for which he has no other course left open than to rush to court for a certificate. Because they will be under the obligation to apply for certificates or for probates or for letters of administration the law should not be stringent.

For these reasons, I oppose this particular provision in the Bill.

Babu FANINDRALAL DE: The amendment I wish to move to clause 7 of the Bill suggests rather a new departure from the existing system. I want to add that the total duty shall be payable in five equal instalments, in five years, and in case of the death of the holder of the certificate before the payment of the last of such instalments, no fresh duty is leviable on a fresh certificate in respect of the same estate. My point is clear from the nature of the wordings of the amendment. I do not grudge the increased rates, but I want that some sort of relief should be granted in the payment of duty. Frequently, the estates are encumbered and it is extremely difficult to pay the lump duty. The distribution of payment for several years will ease matters. It will do something more. It is not rare to find the successive proprietors of an estate dying within short intervals. If duty is to be charged for each probate or letter of administration, the property will be impoverished. Confusion prevails in the estate on such occasions and it is undesirable to increase the burden and hardship by fresh impositions in every

case. From a consideration of justice and equity also, some such provision should be made. All cases of transfer of property do not necessarily require taking probates or letters of administration. The landed aristocracy can safely avoid the duty by merely taking succession certificates in respect of arrear rents and nothing more. It is certainly not just, therefore, that those who are to pay it, should be shown no consideration, and it is no argument that since they are suffering, they should suffer more, while others, equally liable, escape scot-free. That is why I wish that every possible facility and accommodation be granted to them in respect of payment. As for the security of the dues, I suggest that the amount of the duty may remain as a charge on the estate; no one can reasonably object to that.

Legislation in this direction has been taken in many countries and I hope it will be adopted here also: hence I move the following amendment:—

That in clause 7, article 11, at the end of the fourth entry, the following be added, namely,—

'Provided that the total duty shall be payable in equal instalments in five years and in case of the death of the holder of the probate or letters of administration before the payment of the last of such instalments, no fresh duty shall be leviable on a fresh probate or letters of administration in respect of the same estate.'

The following amendment, standing in the name of Maulvi Muhammad Madassur Hussain, was, in the absence of the member, deemed to be withdrawn:—

That for both columns in the four entries in clause 7, the following be substituted, namely,—

'When the amount or value of the property in respect of which the grant of probate or letters is made does not exceed ten thousand rupees,	Two per centum on such amount or value.
and	
when such amount or value exceeds ten thousand rupees, but does not exceed twenty thousand rupees,	Three per centum on such amount or value.
and	
when such amount or value exceeds twenty thousand rupees, but does not exceed fifty thousand rupees,	Four per centum on such amount or value.
and	
when such amount or value exceeds fifty thousand rupees, but does not exceed a lakh of rupees,	Five per centum on such amount or value.
and	

when such amount or value exceeds a lakh of rupees,	Five and a half per centum on such amount or value.'

The Hon'ble Mr. J. H. KERR: Rai Mahendra Chandra Mitra Bahadur has worked himself up to a state of indignation about this 5 per cent. to be charged on estates the value of which exceeds a lakh of rupees, and has asked that it be omitted. I would remind him that we started by proposing to impose a 5 per cent. duty on estates exceeding Rs. 10,000 in value. That, possibly, was a proposal which might have staggered humanity but our present proposal which has been adopted on the advice of the Incorporated Law Society is, I think, an extremely moderate and reasonable one, and we are not prepared to resile from it.

As regards the amendment of Babu Fanindralal De, he has, I think, been misled by an English analogy which does not really exist here. As I have said before, in this Council these court-fees on probates are not really death duties. When we take up that question we may find it convenient to follow the English practice of allowing payments to be made by instalments. Here we are concerned with probates and succession certificates and it would be contrary to the entire scheme of the Act to allow payment to be spread over a term of years. Under section 191 of the Act, as it stands, no order for the grant of probate or letters of administration can be made until the court is satisfied that the prescribed fee has actually been paid. We are not prepared to change this fundamental principle of the law on the present occasion, and I am afraid I must oppose the amendment.

The amendment of Rai Mahendra Chandra Mitra Bahadur was then put and lost.

The amendment of Babu Fanindralal De was then put and lost.

The DEPUTY-PRESIDENT: The question is that clause 7 stand part of the Bill.

The motion was put and agreed to.

Clause 8.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 8 stand part of the Bill.

The Hon'ble Mr. J. H. KERR: I move that in clause 8,—

(*i*) in lines 1 and 3, for the word ' of ' the word ' in,'

(*ii*) in line 2, for the word ' of ' the word ' to,' and

(*iii*) in line 4, for the word ' submitted ' the word ' substituted ' be substituted.

These are purely verbal alterations.

The motion was put and agreed to.

Babu RISHINDRA NATH SARKAR: I move that in clause 8, for the second and third entries in both columns, the following be substituted, namely,—

'When such amount or value exceeds five thousand rupees, but does not exceed fifteen thousand rupees,	Two-and-a-half per centum on such amount or value, and three-and-a-half per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.
and	
when such amount or value exceeds fifteen thousand rupees, but does not exceed fifty thousand rupees,	Three per centum on such amount or value and four-and-a-half per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.
and	
when such amount or value exceeds fifty thousand rupees, but does not exceed one hundred thousand rupees.	Four per centum on such amount or value, and six per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.
and	
when such amount or value exceeds one hundred thousand rupees,	Five per centum on such amount or value, and seven-and-a-half per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.'

My amendment has reference only to the probate duty and the duty on succession certificate. In all cases, in realising the duty where a certificate is to be obtained, the money has to come from the poor, so this increase will be a great hardship to the poor. I, therefore, hope that my amendment will be accepted.

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to withdraw the following amendment:—

That in clause 8, for the first and second columns, the following be substituted, namely,—

'In any case.	Three per centum on such amount or value and four-and-a-half per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.'

Babu FANINDRALAL DE: I beg to withdraw the following amendment:—

That in clause 8, article 12, in the first entry, for the words 'One thousand rupees' the words 'Two thousand rupees' be substituted, and that the following be added at the end of the fourth entry, namely,—

'Provided that the total duty shall be payable in equal instalments in five years and in case of the death of the holder of the certificate before the payment of the last of such instalments, no fresh duty shall be leviable on a fresh certificate in respect of the same debts and securities.'

Babu SATISH CHANDRA MUKHARJI: I beg to withdraw my amendment also. It was as follows:—

That in clause 8, for the words 'one thousand rupees' in the first entry of the first column, the words 'two thousand rupees' be substituted.

The following amendment, standing in the name of Babu Indu Bhushan Dutta, was in the absence of the member deemed to be withdrawn:—

That in clause 8,—

(1) in the third entry, the words 'but does not exceed a lakh of rupees' be omitted.

(2) both columns of the fourth entry be omitted.

The following amendment, standing in the name of Maulvi Mahammed Madassur Hussain, was, in the absence of the member, deemed to be withdrawn:—

That for both columns in the four entries in clause 8, the following be substituted, namely,—

'When the amount or value of any debt or security specified in the certificate under section 8 of the Act does not exceed ten thousand rupees,	Two per centum on such amount or value and three per centum on the amount or value of any debt to which the certificate is extended under section 10 of the Act.
and	
when such amount or value exceeds ten thousand rupees, but does not exceed twenty thousand rupees,	Three per centum on such amount or value and four-and-a-half per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.
and	

when such amount or value exceeds twenty thousand rupees, but does not exceed fifty thousand rupees,	Four per centum on such amount or value and six per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.
and	
when such amount or value exceeds fifty thousand rupees, but does not exceed a lakh of rupees,	Five per centum on such amount or value and seven-and-a-half per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.
and	
when such amount or value exceeds a lakh of rupees,	Six per centum on such amount or value and nine per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.'

SECRETARY to GOVERNMENT, JUDICIAL DEPARTMENT (Mr. H. P. Duval): The Bill as it stands contains the same percentages as regards the certificates as we have adopted for letters of administration. Following what is already the law in the case of extended certificates when they are required, we have adopted the old system of charging half as much again as for the original certificate. But we have made one great change and that is that we have exempted from duty certificates for a value of Rs. 1,000 and less. At present all certificates have to pay stamp duty, but now it is proposed to exempt smaller certificates. The Member woul dincrease the amount of court-fees proposed on certificates in cases between Rs. 5,000 and Rs. 10,000 in value and reduce it in the case of certificates for sums between Rs. 10,000 and Rs. 15,000: after that he follows the Bill; but he would exempt all certificates up to Rs. 5,000 which is a very big exemption. We have only adopted an exemption up to Rs. 2,000 in respect of letters of administration. The classes of persons and communities which are not bound to take out letters of administration in order to inherit have only to pay fees for certificates in respect of debts and of Government and other securities; whereas others who make a will or have to take out letters of administration under the Succession Act have to pay on the valuation of the whole of the estate; and further, the Certificate Act does not apply to the original jurisdiction of the High Court and any one coming to the High Court has to pay on the whole of an estate in order to get letters of administration, whereas a Hindu or a

Muhammadan in the mufassal who has succeeded to an estate lying in the mufassal has not to apply for letters of administration but only for a succession certificate in respect of debts and securities. I, therefore, submit that it is not necessary to raise the limit of exemption beyond what we have already provided for; it allows a considerable concession to poorer people who find on the death of their parents that they have to institute suits, (most small money suits), to collect debts due to their parents.

The amendment of Babu Rishindra Nath Sarkar was put and lost.

The DEPUTY-PRESIDENT: The question is that clause 8, as amended, stand part of the Bill.

The motion was put and agreed to.

The consideration of clause 9 was postponed.

Clause 10.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 10 stand part of the Bill.

Maulvi YAKUINUDDIN AHMED: I move that clause 10 be omitted.

This clause is in respect of cases of complaint charges of offences preferred in the Criminal Court. The court-fee prescribed by the Bill is Re. 1 and in other cases twelve annas and that for the words 'One rupee' opposite clause (c) in the second column, the words 'One rupee and eight annas' be substituted.

I beg to submit that the complaints in the criminal courts are for the protection of the poor against the strong and the court-fee of annas eight for complaints in the criminal court, I think, is quite sufficient and to increase it to Re. 1-8-0 is rather hard on the weak and poor people. We know that whenever any poor man is oppressed he goes to the Criminal Court with Re. 1 or Rs. 2—the proceeds of the sale of his wherewithal he has to pay the court-fee on the petition and for the *muktarnama* or *vakalatnama*. Now it is sought to increase the rate of court-fees with regard to these complaints in the criminal court from annas eight to Re. 1-8-0. It is rather a very big jump and I submit that it will be very hard upon the poor and it will immediately attract their attention that in order to right the wrongs and redress their grievances that they suffer at the hands of the rich and strong they will henceforth have to spend a lot of money. This fact will give rise to greater and greater discontent in their minds and I hope the Council will do well to adhere to the former Court-fees Act and oppose the introduction of an increase of 50 per cent. duty.

The following amendment, standing in the name of Babu Indu Bhushan Dutta, was, in the absence of the member, deemed to be withdrawn:—

"That in clause 10, in sub-clause (*b*) (*i*), for the words 'Two annas' the words 'one anna six pies' be substituted."

Maulvi HAMID-UD-DIN KHAN: I move that in clause 10, sub-clauses (*b*) (*ii*) and (*b*) (*iii*) be omitted.

I have hardly anything more to add to what has been said by my friend Maulvi Yakuinuddin Ahmed.

Those who have a little experience of the mufassal know that the poor people when they come to the criminal court to institute a case of trespass, of cattle-trespass or an offence of that kind, they cannot even pay Rs. 2 to lodge their complaint. If the court-fee on petitions in criminal courts be increased it will be something like denying justice to the poor people. So my humble submission is that the court-fees provided in clauses (*ii*) and (*iii*) be omitted in order to give relief to the poor people against the strong and the rich who often torture them and commit violence on them.

With these words, I beg to commend my amendment to the acceptance of the Council.

Khan Bahadur Maulvi WASIMUDDIN AHMED: I move that clause 10(*b*) (*ii*) be omitted.

After my experience of the fate of my last speech on clause 10, I do not think it is proper for me to make any speech whatsoever. Clause 3 contemplates only one class of petition of complaint when presented to court in non-cognisable cases, but this clause contemplates all the subsequent petitions and also all sorts of petitions that come up either to the Civil or to the Criminal Court. The draft of the Bill says that there should be an increase of 50 per cent., but in this case the increase is cent per cent. Is that reasonable? But it is hopeless to expect the Government to give their consideration to this point. My amendment is that on petitions, when presented to a higher court, the duty may be a little more but when presented to a munsif's court or any ordinary criminal court below that of the sessions court it should be something less. It is useless to expect that my amendment will be accepted, but I formally place my suggestions before the Council in the hope that they may receive some consideration.

Babu RISHINDRA NATH SARKAR: I know that this amendment of the Bill, if carried, will cause greater hardship than the court-fee that is to be paid on the plaint and also for a complaint in a criminal court. I know of many cases in which the applicants spend far greater sums than is paid for the court-fee. If this amendment is

not carried it will be a great relief to the poor when they make applications for adjournment or the like.

With these words, I commend my amendment to the Council.

Khan Bahadur Maulvi WASIMUDDIN AHMED: I beg, if my former amendment be not carried, to move that for the words ' in the case of a complaint or charge of an offence presented to a criminal court, one rupee, and in other cases, twelve annas; and ' the following be substituted, namely,—

' When presented to a court of session, one rupee, and when presented to a civil court above that of a Munsif, twelve annas; and in other cases, eight annas.'

Herein, I have made some provision for higher court-fees when applications are presented in a court of sessions. The number of cases in sessions courts are small, but when a man goes to such a court he undertakes many other expenses and the increase proposed by me will not be a hardship to him. The people who go to the sessions courts are not very poor and can afford to pay 12 annas in place of 8 annas. I entertain the same opinion with regard to the fate of this resolution so I need not add anything further.

The following amendment, standing in the names of Shah Syed Emdadul Huq and Babu Indu Bhushan Dutta was, in the absence of the members, deemed to be withdrawn:—

That for sub-clause (*b*) (*ii*) of clause 10, the following be substituted, namely,—

' (*ii*) for the words " Eight annas " opposite clause (*b*) in the second column the words " Twelve annas " be substituted.'

Babu BISHMADEV DAS: I move that for clause 10 (*b*) (*ii*), the following be substituted, namely,—

' (*ii*) For the words " Eight annas " opposite clause (*b*) in the second column, the following be substituted, namely,—

(*i*) In the case of a complaint or charge of an offence presented to a criminal court, one rupee.

(*ii*) if presented in suits valued up to rupees one hundred, eight annas.

(*iii*) In other cases, twelve annas.'

My object is to exempt petitions in suits valued up to Rs. 100 from the proposed increase of duty. The increase affects the poorest people. The existing duty of eight annas is more than sufficient, and it will be a great hardship, if the duty is increased 50 per cent. even in suits valued up to Rs. 100. It is well known that the litigant public file petitions of one anna more frequently than petitions of 8 annas, yet in many cases the cost of these petitions exceeds the amount of

court-fee on the plaint. My proposal is extremely moderate and I hope the Hon'ble Member in charge will kindly accept it.

The Hon'ble Mr. J. H. KERR: I move that in clause 10 (b) (iii), line 3, the word 'and' be omitted.

Rai JOGENDRA CHUNDER GHOSE Bahadur: I beg to support the amendment that the court-fee on a petition of complaint in a criminal court be not increased. A duty on justice is always unjustifiable. In olden times the King sat at the gate and heard complaints from the poor; that was the great glory of the King. With advancing civilisation and complicated systems, judges, and courts were appointed and for the cost of those establishments, a certain small duty was imposed. That was the only justification of the court-fees. Now we, here, make a large profit out of justice. There can be no justification whatsoever for increasing court-fees. It is against all principles of right and justice, against all historical traditions, which we in India, at least, possess, of how justice was administered. Now, that applies to both civil and criminal cases. I opposed the whole Bill when it was introduced, but as regards this particular increase on complaints of the poor against ill-treatment by the rich and the strong, this increase beats me. I cannot indeed find any justification for this increase in the payment of duty by a weak person ill-treated by a strong one, coming to court for redress. Why are the police here; why this extraordinary expenditure on the police? It is for the protection of the poor against the oppression of wrong-doers. When you spend such an immense amount of money for the protection of the poor, is it right and just that the complaint of the poor should be charged with such high duty? I cannot find any justification whatever, and I would ask the Government to reconsider their decision in this matter.

The Hon'ble Mr. J. H. KERR: The most general criticisms, I think, have been directed to the proposal to increase the fee on criminal complaints. The Council, on Friday last, accepted a fee of Re. 1 for criminal complaints under section 18 of the Court-fees Act, and it seems to me that it would be somewhat inconsistent with that decision if we applied a different scale of fees to the criminal complaints which are mentioned in Schedule II of the Act. I do not know what the precise effect of this inconsistency would be, but I am fairly certain of the practical justification for increasing these fees in criminal complaints. Personally, having had to do a good deal of criminal work in my younger days, I regard this enhancement on criminal complaints as more justified than anything else. It always seemed to me a very curious thing that anybody coming to my court and filing a criminal complaint at a cost of 8 annas, should expect me to give up days and sometimes weeks of my time to the hearing of that complaint and arriving at a conclusion on all the various complicated issues to which a criminal

complaint in this country often gives rise. I am quite certain that the King of whom Rai Jogendra Chunder Ghose Bahadur spoke, gave his decision summarily at the palace gate. He did not, like the present-day magistrate, have to sit with a strong bar in front of him going into matters at considerable length and ascertaining all the facts. The criminal cases in which 8 annas is a sufficient fee are, I think, very few indeed. Personally I should like to see some sort of sliding scale for criminal cases based, as we are told is the practice on the Original Side of the High Court, on the number of days which a case takes for hearing, but we are hardly justified in connection with this Bill in proposing any such radical change in existing arrangements. But I do suggest that there is no serious hardship, and in the great majority of cases no hardship at all in increasing these fees in criminal cases from 8 annas to a rupee. I would remind the Council that 8 annas has been charged on criminal complaints ever since 1870 more than 50 years ago; prices have gone up since 1870 and I think one rupee is a very moderate increase in the charge made by Government for the administration of criminal justice and can be fully justified.

As to the other items covered by the Schedule, we are here following our usual practice in putting up the fee by 50 per cent. all round in order to make money. We are not concealing our object at all.

Babu Rishindra Nath Sarkar, I think, while accepting the increase proposed in the matter of criminal complaints thought that in miscellaneous applications for adjournments and the like, it was likely to cause hardship if we increased the fee from 8 annas to 12 annas. My own view is that, this is a case where we can legitimately make more money. The application for adjournment is exactly what causes an increase of expense to Government in the trial of these cases, and I do not think it is excessive that when a party wants an adjournment he should be called upon to pay 12 annas for making the application. The financial effect of accepting these amendments would be very serious, and I am afraid I must oppose them.

Babu SURENDRA NATH MALLIK: May I venture to bring one fact to the notice of the Hon'ble Member and that is this. He says that on miscellaneous petitions there ought to be higher fees and in cases of applications for adjournments something more ought to be paid because adjournments are a luxury. But there are many cases in which applications for adjournments have to be filed on account of the fact that the Magistrate will not take down answers; or is otherwise oppressive. There are summary trials and in certain other cases also they refuse to take down answers to questions put in cross-examination. There is a certain member at present in this House before whom I appeared some years ago; he was then a Joint Magistrate, and I remember defending accused persons before him had to put in 218 applications in the courts of a trial lasting over 3 months; I did it myself, so I know all about this. This

was about 25 years ago. Such cases are numerous, and the moment you take it at a higher rate, the result will be that you will prevent people putting in applications as frequently as they are required. There have been cases with courts sitting till 8 o'clock at night when the Magistrate orders an application to be put in. Even if it was midnight the order would be the same "put in an application." Everybody is not like the Hon'ble Mr. Kerr, as considerate and thoughtful, and I, of all persons, know how these things are done in mufassal courts. Therefore, I think that, so far as miscellaneous applications are concerned, the fee should be 8 annas only, and any attempt to increase it will go a great way towards preventing people from putting in these applications.

I therefore support the idea, and think it ought not to be anything over 8 annas, and I hope the Hon'ble Member will see his way to accept this amendment.

Rai RADHA CHARAN PAL Bahadur: Having regard to the numerous objections raised in connection with the proposed increase of fee on miscellaneous applications, may I suggest a compromise that instead of 8 annas, 10 annas should be substituted?

The DEPUTY-PRESIDENT: Mr. Kerr, would you like to say anything more?

The Hon'ble Mr. J. H. KERR: I have said all I had to say.

The amendment standing in the name of Maulvi Yakuinuddin Ahmed was then put and lost.

The amendment standing in the name of Maulvi Hamid-ud-din Khan was then put and lost.

The amendment standing in the name of Khan Bahadur Maulvi Wasimuddin Ahmed was then put and a division was taken with the following result:—

AYES.

Ahmed, Khan Bahadur, Maulvi Emaduddin.
Ahmed, Khan Bahadur, Maulvi Wasimuddin.
Ahmed, Maulvi Rafi Uddin.
Ahmed, Maulvi Yakuinuddin.
Ali, Munshi Amir.
Azam, Khan Bahadur Khwaja Mohamed.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Maulvi Shah Muhammad.
Das, Babu Shishmadev.
Das Gupta, Rai Bahadur Niharan Chandra.
Ghose, Rai Bahadur Jogendra Chander.
Haq, Shah Syed Emdadul.
Jonah, Babu Sarat Chandra.
Khan, Maulvi Hamid-ud-din.
Khan Chaudhuri, Khan Bahadur Maulvi Muhammad Ershad Ali.
Maitk, Babu Surendra Nath.
Mitra, Rai Bahadur Mahendra Chandra.
Mukherji, Babu Satish Chandra.
Mukherji, Professor S. S.
Pal, Rai Bahadur Radha Charan.
Ray, Kumar Shib Shekhareswar.
Ray, Rai Bahadur Upendra Lal.
Roy, Babu Naini Nath.
Sarkar, Babu Rishindra Nath.

NOES.

Ali, Munshi Ayub.
Banerjea, the Hon'ble Sir Surendra Nath.
Banerjea, Rai Bahadur Ashuto Chandra.
Bose, Babu Jatindra Nath.
Dias, Mr. J. E.
Dompas, Mr. C. H.

Bose, Mr. S. M.	Maharajadhiraja Bahadur of Burdwan, the Hon'ble.
Chaudhuri, the Hon'ble Nawab Saiyid Nawab Ali, Khan Bahadur.	Ritter, the Hon'ble Mr. P. C.
Das, Mr. S. R.	Rahim, the Hon'ble Sir Abd-ur-
De, Babu Fanindralal.	Ray Chaudhuri, Mr. Krishna Chandra.
Deare, Lieutenant-Colonel E. H.	Roy, Babu Jogendra Nath.
Dutt, Mr. Ajoy Chander.	Roy, Mr. Bijoy Prosad Singh.
Dutta, Babu Annada Charan.	Roy, Rai Bahadur Lalit Mohan Singh.
Duval, Mr. H. P.	Salam, Khan Bahadur Abdus.
French, Mr. F. C.	Sarkar, Babu Jogesh Chandra.
Forrester, Mr. J. Campbell.	Skinner, Mr. H. E.
Ghose, Mr. D. C.	Spry, Mr. H. E.
Goode, Mr. S. W.	Stephenson, Mr. H. L.
Hopkyns, Mr. W. S.	Suhrawardy, Dr. A.
Huntingford, Mr. G. T.	Suhrawardy, Dr. Hassan.
Kerr, the Hon'ble Mr. J. H.	Swan, Mr. J. A. L.
Khan, Mr. Razaur Rahman.	Walch, Mr. C. P.
Lang, Mr. J.	Wheeler, the Hon'ble Sir Henry.
Larmour, Mr. P. A.	Wordsworth, Mr. W. C.

The Ayes being 24 and the Noes 42, the motion was lost.

The rest of the amendments (except that of the Hon'ble Mr. Kerr) which were moved, were then put and lost.

The amendment standing in the name of the Hon'ble Mr. Kerr was then put and agreed to.

The DEPUTY-PRESIDENT: The question is that clause 10, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 11.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 11 stand part of the Bill.

Maulvi YAKUINUDDIN AHMED: I beg leave to withdraw the following amendment standing in my name:—

'That clause 11 be omitted.'

The Hon'ble Mr. J. H. KERR: I move that in clause 11, line 2, after the wards ' in the same Schedule ' the words ' to the same Act ' be inserted.

The following amendment, standing in the name of Babu Fanindralal De, was, in the absence of the member, deemed to be withdrawn:—

That for clause 11, the following be substituted, namely,—

' For clause (i) in the second column of article 1, in the same Schedule, and for the entries opposite that clause in the third column thereof, the following clause and entries shall be substituted:—

" (*d*)(i) When presented to the High Court under section 115 of the Code of Civil Procedure, 1908, for revision of an order.	Three rupees.

(*iii*) When presented to the High Court otherwise than under that section.		Two rupees."

The following amendment, standing in the names of Rai Mahendra Chandra Mitra Bahadur and Babu Satish Chandra Mukharji, was then, by leave of the Council, withdrawn :—

" That in clause 11 (*d*) (*i*), after the words, ' for revision of an order ' the words 'Five rupees' be inserted, and that clauses (*d*) (*i*) (*a*) and (*d*) (*i*) (*b*) be omitted.

The amendment standing in the name of the Hon'ble Mr. Kerr was then put and agreed to.

The DEPUTY-PRESIDENT: The question is that clause 11, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 12.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 12 stand part of the Bill

Maulvi YAKUBNUDDIN AHMED: I beg to move that clause 12 be omitted.

The same consideration which I urged with regard to the raising of the court-fee on plaints from 8 annas to Re. 1 applies with regard to the *mukhtearnamas* and *vakalatnamas*. When a poor weak man is oppressed, he comes to the criminal court to lay his grievance before the Court, and has to engage a *mukhtear* or a pleader, and in addition to paying the court-fee for the plaint, he has to pay an additional court-fee for the *mukhtearnama* or *vakalatnama;* that fee was fixed formerly at 8 annas, and has been raised to Re. 1. I beg to submit that this is a cent. per cent. increase which ought not to be the case when there is a consideration of protection of the weak against the strong, and I beg to submit that the poor man after selling his cattle or whatever he has got, comes to the town, to court to lodge a complaint, and if he has to pay something to the *mukhtear*—it is a pittance which he comes furnished with—with that money he cannot pay the *mukhtear* as well as the court-fee that is demanded by the court. This increase of cent. per cent. is, I beg to submit, very hard upon weak and poor people.

With these words, I beg to submit my amendment to the acceptance of the House.

Maulvi HAMID-UD-DIN KHAN: I move that in clause 12, sub-clause (*i*) be omitted.

My experience a few minutes ago with regard to the increase of fees on petitions, cent. per cent., leads me to believe that the

cry for the amelioration of the condition of the poor, or to help the poor or to better the condition of the poor, is like a cry in the wilderness, so my submission is that as the fee on petitions has been increased in the case of criminal complaints from 8 annas to one rupee, this increment on the fee of *vakalatnamas* and *mukhtearnamas* cent. per cent. will be adding insult to injury.

With these words, I beg to put forward my amendment.

Babu SATISH CHANDRA MUKHARJI: The matter relates only to *vakalatnamas*. My only objection in regard to this is that the increase from 8 annas to Re. 1 will tell heavily on the poor litigants. It may so happen that the poor litigant has to file two or three *vakalatnamas* in a case; this increase will then press heavily on him. There is another amendment (No. 86) standing in my name on this particular clause, so I shall speak on both together. The increase recommended in regard to sub-clause (*1*) is 100 per cent. but in regard to sub-clause (*2*) it is 50 per cent. My proposal is that the increase should be uniform in both clauses, and I suggest that if the sub-clause be not omitted altogether, the increase should be 50 per cent. No case has been made out by Government for an increase of 100 per cent. in this case when the principle of the Bill is to increase court-fees by 50 per cent. So I hope the Hon'ble Member in charge of the Bill will agree to my request to have the rate increased by 50 per cent. only.

Khan Bahadur Maulvi WASIMUDDIN AHMED: We see the atmosphere is surcharged with quite a different element and our objections and arguments, however strong, will only fall on deaf ears. It is not likely to produce any effect, however strongly that argument may be couched; nevertheless we owe a duty to our constituency, to look to their future interests. It is a sheer sense of duty, nothing short of that, that makes us yet pluck up sufficient courage to speak on a resolution like this, knowing full well the fate of our endeavours. It is the most hazardous and crushing section of all. We know in the case of petitions also when a suit of Rs. 5 is instituted, the court-fee is 6 annas only, but applications are very numerous, and we often find that the court-fee paid on petitions of this kind, is four or five times the value of court-fees paid on original amounts. It is an acknowledged fact that whenever a zamindar is bent on ruining a tenant, he brings in successive rent suits every quarter so that the amount spent on these suits will be ultimately realised from the tenant. The zamindars have their retained *mukhtears* and pleaders; they have not to spend much in bringing in these suits, so you can imagine the fate of the poor tenants who have to answer the demands of these landlords and have to engage pleaders and *mukhtears* and have to pay for them. Though a *mukhtear* has nothng to do in the civil court, the landlord will engage both a pleader and a *mukhtear* simply to add additional burden on the tenants, as under the law he can do so. Take for instance

in a case of Rs. 10 where the court-fee is only 12 annas; the landlord will engage a *mukhtear* as well as a pleader, and the *vakalatnama* and the *mukhtearnama* will add another Rs. 2. So, in these cases, there is a very good possibility of crushing the tenant. In order to subject the tenants to this sort of extortion the zamindar will go on spending no matter how much he spends, as he is sure that the rent will be decreed with costs and that he will get all these from the tenants; ultimately the landlord will realise Rs. 20 from a suit of Rs. 10 and the tenant will be crushed. So I think it is not desirable to give any opportunities to the landlords who are out to crush their tenants. I hope that this fact will at least be considered; though I am not at all hopeful, yet I expect that some gentlemen will consider the matter unless they are determined to support the Government in any measure. I too was accused of supporting Government when the Bills were introduced, but at that time I thought that taxation was necessary for the upkeep and efficient working of the administration. At the same time we also thought that there are some sections of the community who are badly affected by these provisions. I thought, Sir, that good sense would prevail and that cases involving extreme hardship would receive some consideration and that we would secure some relief for the poor. Now, I find, however, that my expectations are all hopeless and on the next occasion I think we should be wiser and should think twice as to which way we should go and which way we should support.

The following amendment, standing in the name of Babu Rishindra Nath Sarkar, was, by leave of the Council, withdrawn:—

That in clause 12(*1*), for the words 'One rupee' the words 'For suits up to two thousand rupees in value, eight annas, and in other case, one rupee' be substituted.

Babu BHISHMADEV DAS: I move that in clause 12(*1*) after the words 'One rupee' the words 'except *vakalatnamas* and *mukhtearnamas* presented to any munsif's court or a criminal court of first instance' be inserted.

My intention is to exempt the *vakalatnamas* and *mukhtearnamas* from the proposed increase of duty. It is well known that the fees payable to pleaders and *mukhtears* in these courts are generally low and the parties are generally poor. In the munsif's courts poor defendants, in some cases, appear simply to pray for instalments or remission of damages or interest or adjournment of a suit for compromise or to postpone a sale or to pay the decretal money or to deposit rent. In these and similar cases and in suits of low value, the proposed change will cause great hardship. The courts generally do not recognise the appearance of parties unless a power is filed. For instance, in a suit valued at Rs. 5 the court-fee on the plaint is six annas, the pleader's fee on *ex-parte* scale is two annas and in contested scale is four annas. If the court-fee payable on a *vakalatnama*

or *mukhtearnama* be one rupee, it will prevent many persons from bringing suits or appearing for a nominal cost. I do not object to the increase of duty on *vakalatnamas* presented to appellate courts—judges' courts, sub-judges' courts and sessions courts.

With these words, I move my amendment.

Khan Bahadur Maulvi WASIMUDDIN AHMED: I move that after clause 12 (*d*) the following be inserted, namely,—

'(*1A*) After clause (*a*) the following be inserted, namely:—	
(*a1*) to a court of sessions or a civil court above that of a Munsif.'	Twelve annas.'

I formally move the amendment though I have no hope of its being accepted.

Babu SATISH CHANDRA MUKHARJI: I have already spoken on the subject in connection with my previous amendment. I therefore formally move that in clause 12(*1*), for the words 'One rupee' the words 'Twelve annas' be substituted.

SHAH SYED EMDADUL HAQ spoke in Bengali. The translation of his speech is as follows:—

Before proceeding, I might inform the House, with deep regret, that I was not afforded an opportunity of expressing my views on motion No. 66, although I was present here immediately after my prayers. But what is done cannot be undone. That motion of mine mainly related to the complainants and the accused in a criminal case. Some of the members have expressed their arguments in this regard, but I desire to confine my remarks to *mukhtearnamas* and *vakalatnamas* in the criminal courts. I fail to understand, Sir, why there has been an increase of cent. per cent., in so far as the *mukhtearnamas* and *vakalatnamas* are concerned, but when other matters are concerned, there has been only an increase of 50 per cent.

I am glad to find that the Hon'ble the Member in charge has granted certain concessions in the matter of court-fees. If on this occasion, Sir, the Hon'ble Member does not find it possible to give way to the popular demands, we will naturally come to the conclusion that these concessions were not the outcome of his magnanimity, but otherwise we will apprehend that the Hon'ble Member was reluctantly forced to come to a partial settlement in the teeth of great public opposition. The hardships to be encountered in this respect is all the greater when compared with the civil suits. Civil suits, Sir, as a rule, arise when monetary problems are affected; but criminal cases do not fall within that category. I have argued at full length about this before, and it is a sheer waste of time to recapitulate those arguments now. Does it, Sir, stand to reason that when a man is subjected to all sorts of tortures, he cannot

seek the shelter of the British court of justice simply because he is unable to bear the costs for the conduct of his case? I may add that the present charges which a person has to meet for the conduct of criminal cases in court are much too high. And that person is assuredly doomed to destruction if he is burdened with additional charges. Sir, in civil courts, there is some consideration for paupers, whereas in criminal courts there is none of the kind. So I must reiterate the old statement that a person, when molested and tortured, is unable to get justice at the hands of Government. This is strange, indeed! If the Hon'ble Member in charge is not in a position to accept my amendment *in toto*, he may accept it partly in so far as criminal cases are concerned. But the motion, Sir, it may be said, is reasonable in its entirety.

In conclusion, I should observe that it is unfair that an insignificant person like my humble self should form an undigested opinion of my brother members of this Council. But, Sir, we cannot check our feelings; doubts and misgivings are apt to arise. I am a straight man and I am fond of indulging in straight talk. I must concede that I cannot help viewing the attitude of the members with distrust and suspicion. I fail to realise why only 5 or 6 of us should figure on the Ayes side: and the Noes will have the overwhelming majority. Our motions are based from an altruistic point of view. We do not care whether our motions are carried or lost in the Council; but even if we are discomfited in our efforts to keep our own, we entertain very high hope in our minds that our names will be commemorated in the annals of the Reformed Legislative Council of Bengal.

The Hon'ble Mr. J. H. KERR: I move that in clause 12 (*2*), line 3, the word ' and ' be omitted.

Rai JOGENDRA CHUNDER GHOSE Bahadur: Small matters should not at all be despised. This is a small matter but a very important matter. Now, Sir, kindly consider it dispassionately. When a poor man is accused of an offence, the court very often considers it its duty to see that he is defended by a pleader or a *mukhtear*. The Government rightly very often pays for the expenses of such defence. Every man should, if possible, be defended, specially in the case of the poor when there is at least a suspicion that he has been falsely accused. False accusations are in this country, I know, numerous; and the poor are often sent to jail through the machinations of their enemies. In such cases, is it right, is it fair, or is it proper to demand that the poor shall be required to pay Re. 1 on a *wakalatnama* for engaging a pleader or a *mukhtear*? There are cases in which young pleaders appear without any fee to defend an accused person. In such cases, is it right that these men should be required to pay annas eight or Re. 1 for their defence? As a general rule, the Hon'ble Mr. Kerr has not increased the duty by 50 per cent. Why is it that in this matter he has increased it

100 per cent? It is for him to explain this differential treatment. There ought not to be any reason whatsoever and the increase of 100 per cent. is absolutely unjustifiable.

Now, there is another matter, and that is that in rent suits before munsifs you should remember that this tax would fall on the tenants. The zamindar in a suit for rent for Rs. 20 will pay Re. 1 as *vakalatnama* and Re. 1, as *mukhtearnama*, *i.e.*, Rs. 2: the tenant, as he must also engage a pleader and a *mukhtear*, has to spend Rs. 2. So, when the rent suit is decreed, the cost will fall ultimately on the tenant. I submit that in such cases the increase is practically cent. per cent. and is wholly unjustifiable.

Maulvi RAFI UDDIN AHMED: I beg to support this motion, but I do not say that Government should exempt all cases, but to a certain limit. From the list of cases supplied to us I find that almost half the number of suits are below Rs. 75.

Government is kind enough to the poor and I find that this is so not merely in words but in deeds also. Government in its graciousness has allowed the court-fees to remain as they are on a sum up to Rs. 75 only to benefit the poor. I hope Government will do the same in the case of *vakalatnamas* and *mukhtearnamas* as well. If this is allowed it will affect about 17 lakhs of people including plaintiffs and defendants, but the income derived from this will not be more than rupees two lakhs. The principle of taxation, as we all know, is that we are to dissatisfy a small number of men by realising a large amount. But here we find that a larger number of people will be dissatisfied with a lesser amount of money to Government. So, I humbly pray that Government will be pleased to consider this matter and to limit the increase up to Rs. 75.

Babu SURENDRA NATH MALLIK: I beg to offer my condolence to my esteemed friend Khan Bahadur Maulvi Wasimuddin Ahmed and Maulvi Yakuinuddin Ahmed and those of my ultra pro-Government friends who were very anxious to support the three taxation Bills. They are now crying that they are being washed away by the flood of the majority. Why did you allow the flood-gates to be opened and having done that why do you complain of being washed away by the flood? I do not however like to say anything more as they have expressed their regret. I hope that better sense will prevail with them on future occasions.

The DEPUTY-PRESIDENT: You should address the Chair.

Babu SURENDRA NATH MALLIK: I was doing that, Sir, but the language was defective (Laughter).

Then, it seems that these members, however wrong they might have been, they were misled into a situation by the superior psychological instinct of the hon'ble gentleman who moved the introduction of these Bills. If you study very carefully the way in which these Bills have

been introduced, you will find that the first Bill that was introduced was the Amusements Bill, that is mufassal *versus* Calcutta; the second that was introduced at that time was the Court-fees Bill and the Stamp Bill was the last, as this Bill will yield the highest revenue. As the Hon'ble Mr. Kerr knew that by the inertia caused it would go on, he put the Stamp Bill first at the time of final discussion. As, however, at that time he found that there were many motions for accepting the two or three years' limit, he completely changed his tactics. So I may tell you that he is not so simple as we think him to be. As I have said, he took up the Stamp Bill as it involves so much money and then the Court-fees Bill, and by the inertia he will carry the Amusements Bill last of all. It does not matter even if we carry it for two years. I hope therefore my friends will not be deceived over again. My grievance is that my esteemed friend, the Hon'ble Mr. Kerr, could not see his way to agree with us in exempting these miscellaneous petitions from the stamp duty of Re. 1. Petitions and *vakalatnamas* ought to have been left untouched because they affect the poorest of the poor as at times these people are oppressed. You will see that the result of it will be that a large number of these people will not be able to go to court at all. It may be said: "Why should they not pay? If they want to go to court, they can give something to Government." To the best of my experience, these people are sometimes unable to pay for the court-fee and *talabana*. If you can successfully block their way to court, it will be a very bad move indeed, and this should not have been done. With all the emphasis that I can command and with the utmost humility, I ask the Hon'ble Member in charge to reconsider the situation. You are doing something which you ought not to have done. The revenue you will get will be more than counter balanced by the curses you will earn. Do not do it please, as it will do you no good and you ought not to do it. As a successful man of business and a man of experience which he is I will ask him to reconsider the situation.

Then, the Hon'ble Member said that when he was a joint magistrate a man who paid a stamp fee of eight annas kept him engaged for 6 or 7 days. I may say that you realise so much by sending a man to jail for 760 days. So I think there should be no complaint about that at all. The very fact is that this is wrong; you are selling justice. Do not please weigh justice like that. Here is a man who is going to pay a small duty; you may say that he ought to pay more. Then why not ask for Rs. 675 for a petition because it represents your pay as a magistrate and a peshkar's salary? That is not the way of considering this question. Government should encourage the oppressed people to seek their redress from the courts and that has made the Government—the English administration—so popular. If you are going to shut these people out you are going to lay the axe at your feet. You will have to rue it. I am not one of those who oppose everything. I opposed all these things on principle, because I thought that it was unjust to impose this additional

taxation for the purpose of meeting the ordinary expenditure. I lost on that occasion: and I do not like to fight on details unnecessarily, except where I find that justice demands that certain things should be done. Here, I do approach the Hon'ble Member and ask him to give some relief to the people. I am thankful to him for having on a previous occasion accepted my suggestion. In this case if he could exempt criminal complaints, petitions and *vakalatnamas*, he would have done us the kindest thing. But by not doing it, he is likely to get the curses of the poor people, as this will cause injustice and hardship to the people. I will again ask him to reconsider the situation and not be carried away by the fact that he has got a large majority on his side, for it is not always the number that counts. The cry of a suffering man as against his powerful opponent reaches a throne higher up than even the highest chairs in the gubernatorial offices. Do not do that; do not allow the oppressed to go away as they cannot possibly go to courts to get justice. I again repeat and again ask the Hon'ble Member to reconsider the situation. It is the fact that the poor people could fight against their rich oppressors under the British Government, that has made the Government so popular. If you shut them out, you are bound to get curses. I still ask the Hon'ble Member to reconsider the situation.

Rai RADHA CHARAN PAL Bahadur: It seems quite hopeless to effect a compromise on this subject. Therefore, may I suggest, Sir, that the attitude of pathetic contentment displayed by my friend to my left (Maulvi Rafi Uddin Ahmed) may be considered by the Hon'ble Member in charge of the Bill sympathetically? He has suggested to raise the limit from Rs. 50 to Rs. 75, a limit up to which the present rates will apply. It may be considered whether the present rate on *vakalatnamas* should be retained up to Rs. 75. I think—so far as I understand from the figures if they are correct—about 50 per cent. of the cases involve a sum of that amount of Rs. 75. Therefore, I think that if that suggestion is accepted sympathetically, it will afford some relief to the poor people, and at the same time a small crumb will fall from the table of the Hon'ble Mr. Kerr.

SECRETARY to GOVERNMENT, FINANCE DEPARTMENT (Mr. H. E. Spry): I would like with your permission, Sir, to return to the amendments which are under discussion. Some members of the House have wandered somewhat from the business we have in hand; and I think we are indebted to Babu Surendra Nath Mallik for the greatest divergence from the subject under discussion. His idea, so far as I can understand it, is that we are "selling justice." I do not quite know what he intends to imply by that expression. In so far as we demand some payment in return for the services done by Government servants and Government courts, I take it that we are only distinguished from the learned and honoured profession of the Bar by the fact that Government takes very much less than the members of that profession. When

he talks of "selling justice," I wonder how far it can be said that during the last 50 years there has been no increase in the fees charged by pleaders and *mukhtears* to the clients ("Hear, hear"). Sir, this cry of "selling justice" has no substance at all. Certainly, so far as my experience of mufussal courts goes, as a Judge, a Magistrate and a Collector, I can say, without exaggeration, that the amount that Government takes from litigants forms a very small proportion indeed of what they have to spend. No one can deny that, I think. What happens is common knowledge: a man who wishes to go to court consults first of all a person of his village who dabbles in the law, pays him for his advice and then proceeds to court. After consultation with a pleader or *mukhtear* his plaint or complaint is drawn up and is presented, and in due course the matter comes on for hearing. Both prior and subsequent to this stage he has considerable expenses to meet, of which the fees payable under the law form a very small part. The charges of professional legal practitioners have increased very considerably during the last 50 years, during which the relatively small Government charges have remained unchanged, and I can see no reason why Government should not make a moderate increase in the court-fees that are charged when a person goes to the court to prefer a complaint or to institute a suit.

Babu Satish Chandra Mukharji has said that litigants sometimes have to put in three or four *vakalatnamas* and consequently they have to pay three or four court-fees for this purpose. My experience is that a *vakalatnama* contains 15 or 20 names, and the one stamp covers 15 or 20 pleaders, so that it represents not an increase of eight annas in respect of each pleader or *mukhtear* but something considerably less. One aspect of the case which I think has been rather lost sight of in the speeches we have listened to is the financial aspect. Babu Surendra Nath Mallik appealed to the Hon'ble the Finance Member to meet him in this matter. It is very easy to stand up and say "Meet us in the matter and show some consideration to us." These catchwords are very easy to express, but when you come to assess what is asked in rupees, annas and pies, it works out to a loss of Rs. 5½ lakhs. The Hon'ble the Finance Member in this House and in the Select Committee has already surrendered to the extent of over Rs. 6 lakhs, and if the small surplus which the House wishes to see secured is to be maintained, I submit that it is unreasonable to come forward in a plaintive tone and ask for another Rs. 6 or Rs. 10 lakhs to be given up. We recognise that people will have to pay more for litigation in the future than they have paid in the past. We know at the same time that money has to be found, and this Bill appears to provide one of the best ways in which it can be obtained. We believe that this increase in court-fees will form a very small part of the total increase that litigants have now to face, and we consider it impossible to surrender a further Rs. 6 or Rs. 10 lakhs by accepting the amendments.

The amendment standing in the name of Maulvi Yakuinnddin Ahmed was then put and lost.

The amendment standing in the name of Babu Satish Chandra Mukharji and Shah Syed Emdadul Haq was then put and a division taken with the following result:—

AYES.

Addy,
Ahmed, [illegible],
Ahmed, Khan Bahadur Maulvi Wasimuddin.
Ahmed, Maulvi Rafi Uddin.
Ahmed, Maulvi Yakuinuddin.
Alay, Mr. S. Mahboob.
Chaudhuri, Babu Kishori Mohan.
Das, Babu Bhishmadev.
Ghose, Rai Bahadur Jogendra Chunder.
Haq, Shah Syed Emdadul.
Huq, Maulvi Ekramul.
Jonah, Babu Sarat Chandra.
Khan, Maulvi Hamid-ud-din.
Khan Chaudhuri, Khan Bahadur Maulvi Muhammad Ershad Ali.
Mallik, Babu Surendra Nath.
Mitra, Rai Bahadur Mahendra Chandra.
Moitra, Dr. Jatindra Nath.
Mukharji, Babu Satish Chandra.
Pal, Rai Bahadur Radha Charan.
Ray, Rai Bahadur Upendra Lal.
Roy Chaudhuri, Babu Saliaja Nath.
Sarkar, Babu Jogesh Chandra.
Sarkar, Babu Rishindra Nath.
Suhrawardy, Dr. A.

NOES.

Afzal, Nawabzada K. M., Khan Bahadur.
Banerjea, the Hon'ble Sir Surendra Nath.
Basu, Babu Jatindra Nath.
Bise, Mr. S. E.
Bompas, Mr. C. H.
Bose, Mr. S. M.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
Crawford, Mr. T. C.
Das, Mr. S. R.
Das Gupta, Rai Bahadur Niharan Chandra.
De, Babu Panindralal.
Deare, Lieutenant-Colonel S. H.
Dutta, Babu Ananda Charan.
Duval, Mr. H. P.
Forrester, Mr. J. Campbell.
Ghose, Mr. D. C.
Goode, Mr. S. W.
Gupta, Mr. J. N.
Hephyne, Mr. W. S.
Huntingford, Mr. G. T.
Kerr, the Hon'ble Mr. J. H.
Khaitan, Babu Devi Prosad.
Khan, Mr. Razaur Rahman.
Lang, Mr. J.
Larmour, Mr. F. A.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble the
Mitter, the Hon'ble Mr. P. C.
Muir, Mr. R. H.
Pugh, Colonel A. J.
Rae, Mr. W. R.
Rahim, the Hon'ble Sir Abd-ur-
Roy, Mr. Bijoy Prosad Singh.
Roy, Mr. Tarit Bhusan.
Salam, Khan Bahadur Abdus.
Skinner, Mr. H. E.
Spry, Mr. H. E.
Stark, Mr. H. A.
Stephenson, Mr. H. L.
Suhrawardy, Dr. Hassan.
Swan, Mr. J. A. L.
Walsh, Mr. C. P.
Wheeler, the Hon'ble Sir Henry.
Wordsworth, Mr. W. C.

The Ayes being 24 and the Noes 43 the motion was lost.

The amendment standing in the name of the Hon'ble Mr. J. H. Kerr was then put and agreed to.

The rest of the amendments which were moved were then put and lost.

The DEPUTY-PRESIDENT: The question is that clause 12, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 12A.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 12A stand part of the Bill.

The Hon'ble Mr. J. H. KERR: I move that in clause 12A, line 1 for the word 'of' the word 'in' be substituted, and that for the figure '11' the figure '11' be substituted.

Rai RADHA CHARAN PAL Bahadur: I move that in clause 12A, article 1, for the four entries in the third column, the following be substituted, respectively, namely,—

" 'Four annas,' 'Eight annas,' 'One rupee' and 'Two rupees eight annas.'

This is a new clause which was not in the original Bill, and I do not know if it somehow chanced to escape the net of the Hon'ble Member so that he has got it entangled now in his meshes. My proposal is to retain the existing figures in the existing Court-fees Act. We have taxed the litigants in so many ways that I think that in this very small item they may be spared. This is merely a memorandum of appeal to the executive officers and to the revenue officers; and as regards regular appeals an enhanced fee is already provided in the Bill. What I want to point out is this: that in the Report of the Select Committee it is stated that this new clause has been added with a view to minimise the number of—the word "minimise" is not exactly used—rather to discourage the number of appeals that are filed before revenue officers on insufficient grounds. That is the reason that has led the Committee to insert this new clause. I do not know if the Hon'ble Member thinks that very valuable time of the Chief Executive officer or the Revenue Officer or of certain Judicial Officers is taken up by these applications and that on insufficient grounds, and that, therefore by imposing this prohibitive fee, which is 100 per cent. over the existing rates it is proposed to check this abuse of time. I think we might very well ask the Hon'ble Member in charge of the Bill, who is also our Finance Member, to give us some assurance before we vote for the proposal that he will be in a position to retrench the number of Executive Officers having regard to the fact that their work will considerably diminish. If some such assurance is given to us, perhaps we might very cheerfully vote for the new clause that has been put here, but at present I find that as it was not thought advisable on the first occasion, that is, when the Bill was originally framed, to increase this fee by 100 per cent., but to retain the fee as it is in the existing Court-fees Act—I do not think that on that ground alone we should agree to the insertion of this clause.

The following amendment was, in the absence of the member, deemed to be withdrawn:—

Babu FANINDRALAL DE: That in clause 12A, article 11, in the third column, for the words 'One rupee' the words 'Twelve annas' be substituted, and for the words 'Five rupees' the words 'Three rupees' be substituted.

Babu SATISH CHANDRA MUKHARJI: I beg to move that in clause 12A, article 11, for the words 'Five rupees' in the third column, the words 'Three rupees' be substituted.

I will add only one observation in regard to this. In the original Bill there was no mention made of increasing this fee, but the Select Committee increased it. The Bill makes an all-round increase of 50 per cent., but here in place of 50 per cent., it has been increased to 100 per cent. I submit that this is unjustifiable. Let us have an increase of 50 per cent.

Mr. H. P. DUVAL: We have already accepted the principle of increasing fees for regular appeals. We have also accepted the principle to increase the fee in the case of applications for revision. We now ask by this clause to increase the fee in miscellaneous appeals. The present law is that all appeals of a miscellaneous character shall be stamped, in the case of appeals to any Civil or Revenue Court or to an Executive Officer, other than the High Court or the Chief Controlling Revenue or Executive Authority, with eight annas, and in the case of appeals to a High Court or Chief Commissioner or other Chief Controlling Executive or Revenue Authority with Rs. 2. Now the proposal is to leave the Revenue Courts untouched and not to raise the fee in respect of any of the Revenue Courts, that is to say, to leave it at eight annas for the ordinary courts and at Rs. 2 for the Chief Controlling Executive or Revenue authority. But in the case of Civil Courts we raise the fee for a miscellaneous appeal from annas eight to Re. 1 just as we have raised the fee in the case of miscellaneous applications from annas eight to Re. 1 and in the case of the High Court, a fee of Rs. 5 has been fixed for filing appeals. I do not think that Rs. 5 is an excessive fee for miscellaneous appeals which are heard by two High Court Judges who sit together to hear such appeals.

Now Rai Radha Charan Pal Bahadur though he told us that his idea was only to keep the fee as at present, as a matter of fact wishes by his amendment to reduce the fee from eight annas to four annas in the case of ordinary revenue courts from two rupees to one rupee in the case of the Controlling Executive or Revenue Authority. I cannot give him the assurance which he has asked from the Hon'ble the Finance Member that he would be prepared to reduce the executive cadre in view of the fact that the increase in the court-fees will prevent many applications being filed before Revenue Officers, but I would ask the Rai Bahadur whether if the fee be reduced to annas four and there be an increase in the number of appeals, he would be prepared to increase the executive

cadre. As I say, we are only dealing with the civil court and we are increasing the fees in the case of appeals in civil courts at the same rate as we are increasing the fee in the case of ordinary applications and I do not think there can be any objection to the proposals made here which follow the general lines on which we have made increases in similar clauses in the Bill.

The amendment standing in the name of the Hon'ble Mr. J. H. Kerr was then put and agreed to.

The rest of the amendments which were moved were then put and lost.

The DEPUTY-PRESIDENT: The question is that clause 12A as amended stand part of the Bill.

The motion was put and agreed to.

Clause 13.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 13 stand part of the Bill.

Rai MAHENDRA CHANDRA MITRA Bahadur: My motion is for the omission of clause 13. It deals with caveats and certain applications under Act VIII of 1869. The fee originally fixed under the present Act is Rs. 5 and it has been increased to Rs. 10. Now what are the facts. A representation is made to the court by an applicant, and if the fee be charged at the rate of Rs. 10, will not the Council consider that this is a high amount? Suppose the value of an estate is Rs. 200, are we to understand that a fixed amount of Rs. 10 should be paid down? I consider it a great hardship. Besides, whenever an application is made, notice is served upon the applicant to come forward with a caveat before the court. Consequently, it is very desirable that the old fee of Rs. 5 should be retained. Perhaps it might be said that as the standard of increase is 50 per cent., it matters little whether it deals with caveats or other matters, but here the increase proposed is 100 per cent., and it is certainly very great. Now we have some experience of the mufassal and we can say that before an application for a probate is made in the court, that is, in the court of a District Judge, such a notice is given, and what is the procedure the Judge adopts? It is simply this. He serves a notice on the party who has entered a caveat and then the other party comes forward and opposes the application if he wishes. Consequently, we notice this that the fee ought to be reduced: it ought to have been eigth annas, but under the Act of 1870, it was raised to Rs. 5. I do contend that Rs. 5 ought to be retained. Take the other matter, namely, applications under Act VIII of 1869, old Act X of 1859. These are applications in which the matter is not decided. Are we to understand that such applications should bear court-fee of Rs. 10? It will be a hardship on the litigant public and therefore I trust the Hon'ble Member in charge of the Bill will kindly accept my proposal.

Mr. H. P. DUVAL: Outside the Original Side of the High Court the applications with which we are now concerned are very seldom made. Caveats are generally entered in regard to applications for probates or letters of administration, and a caveat is only made when a party suspects that an application is going to be filed in court and he wishes the court if such application is subsequently made to give him notice of it. The Rai Bahadur appears to me to be under the misapprehension that when notce of probate is given to persons which they have got to pay the caveat fee if they appear, but I may point out to him that under a recent ruling of the High Court this is absolutely wrong. The only fee due is the fee on the application. The caveat fee is only charged when, as I say, an application is made to the court in anticipation that some other persons will apply for probate or letters of administration. As I say, such things are not at all common in the mufassal, and I would suggest under those circumstances that there is no harm in raising this fee which is really only paid by persons well able to bear the increased amount.

The motion was put and lost.

The DEPUTY-PRESIDENT: The question is that clause 13 stand part of the Bill.

The motion was put and agreed to.

Clause 14.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 14 stand part of the Bill.

Babu SATISH CHANDRA MUKHARJI: I move that for clause 14 the following be substituted, namely,—

'14. That for the words "ten rupees" in the third column, opposite article 17 of the same Schedule, the following be inserted, namely:—

When filed in a munsif's court	...	Rs. 10.
when filed in a subordinate judge's court	... ...	Rs. 15.'

Formerly the fee was Rs. 10 all round, but in the present Bill it is proposed to be Rs. 15 in certain cases, and Rs. 20 in other cases, but I now move that instead of Rs. 15 and Rs. 20 as proposed, the fee for suits filed in the subordinate judge's court should be Rs. 15. In moving this amendment, I have followed the Select Committee's example of differentiating between suits valued up to Rs. 1,000 and suits over the value of Rs. 1,000. If the recommendation of the Select Committee be adopted, the result would be that in many cases the litigants will suffer. I will illustrate my point. Suits in connection with the record-of-rights under the Bengal Tenancy Act have a fixed court-fee of Rs. 10, but after the

amendment proposed in the Bill such suits cannot be instituted without paying Rs. 15 as court-fee. Similarly in other cases also. Therefore, I have suggested that a differentiation might be made between suits filed in the munsifs' courts and suits filed in the subordinate judges' courts which may come up to the High Court. This will not affect the revenue, as we have already raised the court-fee to 50 per cent. This concession will relieve the poor litigants a good deal. I hope that the amendment I have suggested will be accepted by the House.

The Hon'ble Mr. J. H. KERR: I move that in clause 14(*1*),—

(*1*) in lines 2 and 4, for the word 'of' the word 'in' be substituted; and

(*2*) in line 2, after the words 'the same Schedule' the words 'to the same Act' be inserted.

I also move that in clause 14(*2*),—

(*1*) in line 1, for the words 'of the same Schedule' the words 'in the said article' be substituted;

(*2*) in sub-clauses (*a*) and (*b*) the words 'of the said article' be omitted.

The following amendments were, in the absence of the members, deemed to be withdrawn:—

Khan Bahadur Maulvi WASIMUDDIN AHMED: That for clause 14 (*2*) the following be substituted, namely,—

'(*2*) In the third column of the same schedule,—

(*a*) opposite entries (*i*), (*ii*), (*iii*), (*iv*) and (*vi*) of the said article, the words "ten rupees" shall be inserted; and

(*b*) opposite entry (*v*) of the said article, the words "fifteen rupees" shall be inserted.'

Maulvi FAZ LAL KARIM: That in clause 14 (*2*) (*a*), for the words 'Fifteen rupees' the words 'Twelve rupees eight annas' be substituted, and that in clause 14 (*2*) (*b*), for the words 'Twenty rupees' the words 'Fifteen rupees' be substituted.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in clause 14,—

(*1*) for 'entries (*i*), (*ii*), (*iv*) and (*vi*)' in sub-clause (*2*) (*a*) the following be substituted:—

'entries i, ii, iii, iv, v, and vi'; and

(*2*) sub-clause (*2*) (*b*) be omitted.

I notice here in the Bill that there are two divisions; the first deals with clauses (*i*), (*ii*), (*iv*), and (*vi*) and the others, namely (*iii*) and (*v*) have been classified in another division. The rate fixed for one is Rs. 15

and the rate for the other is Rs. 20. Now, in dealing with the latter, we notice that in suits for declarations in which consequential reliefs are not asked for, the rate is fixed at Rs. 20 and also in a class of suits where the object is set aside the adoption of the same fee Rs. 20 has been fixed. In the old Act all these sub-clauses have been catalogued in one category and that the rate was Rs. 10. Now the question is why there should be such a difference between these cases. It may be contended that in the clause for declaratory relief, it is necessary to add something more than in the other clauses. My contention is that the declarations made by the court are of no great use unless suits for the recovery of possession are instituted. Declarations are mere orders. They cannot be executed and you will be obliged to institute a case for the recovery of possession of the property. Consequently, it would be necessary to add *ad valorem* fee hereafter. You can take Rs. 20 from me and when I sue for the recovery of possession I would have to pay another Rs. 20, so that those who framed the Bill were under the impression that declarations have regard to properties and consequently it is of higher standard and an additional fee has been embodied in the Act. But declarations are not only declarations regarding property but declaration also of the status of a party coming to the court. Consequently declarations can be put forward as mere paper transactions and they ought to be in the same category as I have explained.

Looking to the other class of cases dealing with the setting aside of adoptions, they are of the same category because the High Court in Calcutta has decided that such suits are of a declaratory nature. Consequently it is necessary for one to consider why such an additional fee or higher fee is to be paid. There is another view of the matter. There is a class of cases under section 106 of the Bengal Tenancy Act. The High Court has already decided that the court-fee of Rs. 10 as embodied in article 17 of the Court-fees Act will answer the purpose, and suits under that section are plenty. According to my humble contention it would be a hardship on the part of those who are affected by the record-of-rights to come forward and pay a higher fee. Therefore, reason suggests that it will be necessary for the interest of the parties concerned that the fee ought not to be increased. I was not present in the Select Committee as I was not a member of that committee, but these arguments ought to have been put to the committee. Whether they thought over the matter I do not know, but these are the suggestions I submit to the Council.

There is another class of cases coming under section 149 of the Bengal Tenancy Act. Only third parties are interested and the fee paid under the present Act is Rs. 10. So, under these circumstances, I submit that declarations and suits for setting aside adoption ought to come under the same category.

Th following amendment was, in the absence of the members, deemed to be withdrawn :-

Rai Sahib PANCHANAN SARMA: That in clause 14, sub-clause 2 (b), the words '(*iii*) and ' be omitted and that a sub-clause (*c*) be added to clause 14 to the following effect:—

'(*c*) For entry (*iii*) of the said article the following shall be substituted, namely:—

(*iii*) to obtain a declaratory decree where no consequential relief is claimed.	
(*1*) When the amount or value of the suit does not exceed one thousand rupees,	Ten rupees
(*2*) when the amount or value of the suit exceeds one thousand rupees,	Twenty rupees '

Mr. H. P. DUVAL: In the first place, I think most of the members who have spoken are under a considerable misapprehension about suits under section 106 of the Bengal Tenancy Act. No doubt the item " suit for a declaration in which no consequential relief is sought " applies to such suits and under ordinary circumstances a ten-rupee court-fee is the fee to be paid at present. The Government of India has already by its powers under section 35 of the Court-Fees Act reduced that fee, so that it shall only be *ad valorem* or ten rupees, whichever is less, and I am instructed to inform the House that a fresh notification will be issued and the fee for these suits will not be raised as some of the Members of the Council are afraid they will be.

I now come to the other proposals. The proposal of Babu Satish Chandra Mukharji is that suits tried in the munsifs' court should bear a court-fee of Rs. 10 and those tried in the subordinate judge's court Rs. 15. He would apparently too provide no fee at all for such suits tried by a District Judge, but I do not think that can be the intention of the mover. Previous amendments have been rejected which aimed at fixing the fees according to the courts and I would suggest in this case too that there should be no distinction between the court-fees realisable in munsif's court and those realized in a subordinate judge's court. The differentiation should be on the nature or value of suits and not on the court in which they are tried.

Rai Mahendra Chandra Mitra Bahadur proposes to make the fee Rs. 15 in all cases, that is to say, he would reduce the proposed fees in suits where no consequential relief is sought and on suits for setting aside an adoption. As to suits to set aside an adoption, the Council will remember a certain suit in recent years in Bihar, where the suit was instituted on a ten-rupee court-fee and that is all the Government got, although it had to provide a special subordinate judge for months and months to try the case. Members of the Council will admit that a twenty-rupee court-fee is not at all heavy in such cases. As to suits and memoranda of appeal in cases where a declaratory decree is sought for and no

consequential relief is sought, I will remark that in some of the opinions which we have received we have been invited to consider whether it would not have been better to turn out these classes of suits entirely from this table and treat them as ordinary plaints and charge an *ad valorem* fee. I think it is a matter of common knowledge among those who have anything to do with Civil Courts in the mufassal that this form of suit under the Specific Relief Act is liable to be abused. People do not nominally get any consequential relief, but the decree they do get gives them a status which is practically as good as if they had got a decree for possession. Cases too are frequently brought on a ten-rupee stamp, where an *ad valorem* court-fee should have been paid and I think I am right in saying that in recent years the Appellate Side of the High Court have frequently had to interfere in the matter of the valuation of many such suits in appeal. They are not therefore suits which in the mufassal should be encouraged because the litigants can always sue and pay *ad valorem* fee in order to get consequential relief and in fact that is what a litigant does if the *ad valorem* court-fee is less than Rs. 10.

As to the other items, I do not think I need add anything beyond what I have said already. These items deal with suits to set aside summary decisions or with suits which are brought in connection with contested land registration matters. In these land registration cases, the Collector charges eight annas and on an appeal to the Commissioner a fee of Re. 1 is charged and it is not onerous to call on the parties to pay Rs. 15 if after two decisions they wish to go to the Civil Court.

The fee for setting aside an award has been raised from Rs. 10 to Rs. 15. These suits for setting aside awards should not be encouraged.

Lastly, in miscellaneous suits, where it would be impossible to estimate the money value, we have taken the ordinary 50 per cent. increase as in other cases.

With these words, I oppose all the amendments.

The amendments standing in the name of the Hon'ble Mr. J. H. Kerr were then put and agreed to.

The rest of the amendments which were moved were then put and lost.

The DEPUTY-PRESIDENT: The question is that clause 14, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 15.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 15 stand part of the Bill.

Babu AMULYA DHONE ADDY: I move that clause 15 be omitted.

Under section 71 of the Presidency Small Cause Courts Act of 1882 when the amount or value of a subject-matter does not exceed Rs. 500, the fee is two annas per rupee and when the amount or value exceeds Rs. 500 and up to Rs. 1,000, the fee is at the rate of one anna. Sir, it appears that under this section of the Presidency Small Cause Courts Act the fee up to Rs. 500 is at rate of two annas per rupee. It has been suggested that up to Rs. 50, as recommended by the Select Committee, the rate need not be changed and above Rs. 50 up to Rs. 500 the Select Committee has suggested that the rate should be increased from two annas to three annas per rupee, namely, from 12½ per cent. to 18¾ per cent. So it appears that though in the case of suits in the mufassal courts the rates range from 7½ per cent. to 11¼ per cent., the fees under section 71 of the Presidency Small Cause Courts Act are already higher than the rate as increased by the Council on suits instituted in the mufassal. The maximum rate on suits in the mufassal is 11¼ per cent., but in the case of the Presidency Small Cause Courts the present rate of 12½ per cent., that is to say higher than the proposed mufassal rate.

The DEPUTY-PRESIDENT: You can take up the next item also.

Babu AMULYA DHON ADDY: But as recommended by the Select Committee they go much higher. They suggest that the rate might be increased up to Rs. 500, to 18¾ per cent. Of course they have made a concession, but this is only nominal. They have not suggested an increment up to Rs. 50. I beg to ask whether it is right and just, that the citizens of Calcutta should be heavily taxed in this way, while the people of the mufassal should be charged at a lower rate. Then, Sir, as I have already stated that if the amount of suits be more than Rs. 2,000, the Presidency Small Cause Court has no jurisdiction in the matter, for such suits are to be instituted in the Original Side of the High Court in Calcutta. What is the rate of fee there? It is only Rs. 10 irrespective of the amount of suits. Therefore, it appears that there is one law for the poor and another law for the rich. If the suitor be very rich and if he institutes a suit for more than Rs. 2,000 or even a lakh of rupees then all he has got to pay is Rs. 10. But if the suitor happens to be a poor man or if the defendant happens to be a poor man and if the amount of suit happens to be Rs. 500, the rate for them would be 18¾ per cent. Is it right and just? What would be the effect? It is the poor *bhadralog* class of Calcutta, it is the poor labourers of Calcutta who would have to seriously suffer. If a poor person is unable to pay rent to the landlord then the landlord shall not be able to institute a suit and realise his rent because this addition to the rate would cost him a great deal. If a labourer is unable to realise his wages from his master and if he institutes a suit and if the amount does not exceed Rs. 500, then, Sir, what is the amount of fee he will have to pay? He will have to pay 18¾ per cent. Sir, this would debar these people from seeking justice.

These are the reasons for which I beg to submit that there should be no increment in suits up to Rs. 500.

With these remarks, I beg to move that this section be omitted altogether.

As regards the following item I ask your permission to withdraw it. But I am strongly of opinion that there should be no increment in the rate of fee in the case of poor citizens of Calcutta. They should be placed on the same footing with the people of the mufassal:—

That if amendments Nos. 103 and 104 are lost, for clause 15, the following shall be substituted, namely,—

'15. In section 71 of the Presidency Small Cause Courts Act, 1882, for clause (*b*), the following shall be substituted, namely:—

"(*b*) when the amount or value of the subject-matter exceeds five hundred rupees, but does not exceed one thousand rupees, the sum of sixty-two rupees eight annas, and one anna and three pies in the rupee on the excess of such amount or value over five hundred rupees,

and

(*c*) when the amount or value of the subject-matter exceeds one thousand rupees, the sum of one hundred and one rupees nine annas, and one anna and six pies in the rupee on the excess of such amount or value over one thousand rupees." '

Rai RADHA CHARAN PAL Bahadur: I move that in clause 15, line 2, after the figure '1882' the following be inserted, namely,—'

"(*b*) when the amount or value of the subject-matter exceeds five hundred rupees, the sum of ninety-three rupees twelve annas, and one anna six pies in the rupee on the excess of such amount or value over five hundred rupees."

and sub-clauses (*1*), (*2*) and (*3*) be omitted.'

This clause has been fully explained by the preceding speaker, Babu Amulya Dhone Addy, but my motion stands on quite a different footing. As has been explained, the present law is that up to Rs. 500 the court-fee is annas two in the rupee, although in practice—I do not know how it is—it is about 7 pies per rupee; as a matter of fact that is what we have to pay in the Small Cause Court, Calcutta. The rate then is two annas per rupee up to Rs. 500. Now, in this Bill, it is proposed to reduce that Rs. 500 to Rs. 50 so that two annas will be charged for every rupee up to Rs. 50 and above that three annas should be charged for every rupee, whereas in the present Act it is much less. What I propose in my amendment is to retain the Rs. 500 limit, that is, to charge two annas for every rupee up to Rs. 500 and the higher rate for claims involving in sums

above Rs. 500. My suggestion in the first place, as has been repeatedly stated here, is that this amount is paid at the time of the institution of a suit by the plaintiff and it is realised from the defendant. I believe that my amendment is a very modest one, and it will be a great hardship specially on the small dealers, small traders and business people if you reduce this maximum amount of Rs. 500 to Rs. 50.

I do not know if the Hon'ble Mr. Kerr is in a position or rather in a mood to accept this amendment, and I can hardly raise any hopes in this matter in my breast; it is our last gasp, as it were, in our unsuccessful endeavour to get something out of the Bill. I do not know if any concession can be received from the Hon'ble Member, and I need not say more on the subject.

Mr. H. E. SPRY: I think perhaps it is not uninteresting to note that the two members who represent Calcutta so ably, and who claim to be its mainstay, do not know what is the practice in the Presidency Small Cause Court. Both Mr. Addy and Rai Radha Charan Pal Bahadur have said that the court-fee payable on suits the value of which does not exceed Rs. 500 is two annas in the rupee. Mr. Addy, who I know aims at being accurate in these matters, may be interested to hear that for the last 26 years the fee has been one anna and nine pies in the rupee. In fact both members have overlooked what is prescribed by section 71 of the present Small Cause Court Act. That section lays down the maximum fee only, and under section 75 of the Act the Local Government may, from time to time by notification in the official Gazette vary the amount of the fees payable under sections 71 and 72, provided that the amount of such fees does not exceed the maximum prescribed. That is to say, these are the maximum rates, and within these rates it is open to the Local Government under section 75 to prescribe the fee. The rate was fixed at one anna and nine pies in the rupee in 1896, it has remained at that figure ever since. Neither of the members for Calcutta, apparently, is aware of that fact. The amendment proposed in the Bill to which the Rai Bahadur seems to object affects only the maximum fees prescribed by section 71. It does not in the least follow, nor is it the intention that the fees will be levied at the maximum rates prescribed under this section in the future, any more than they are at the present moment. In fact it is the intention of Government to issue a notification under section 75 increasing the present rates by approximately 50 per cent., but we desire in this section to take power to increase the maximum so as to enable this to be done. That simply is the position.

There are certain alterations which, with the permission of the Chair, I should like to put forward on behalf of Government in regard to this clause. It has been pointed out that as it is drafted there is a considerable jump between sub-clauses (*1*) and (*2*) and we desire therefore with your permission, Sir, to amend the working of sub-clauses (*2*) and (*3*). We desire it to read in this way—when the amount or value of the subject-matter exceeds fifty rupees but does not exceed five hundred rupees—the

sum of six rupees, four annas and three annas in the rupee on the excess of such amount or value over fifty rupees " and in clause (3) it is desired to substitute for ninety-three rupees, twelve annas, the words ninety rupees ten annas. The object of that is merely to afford what I believe will be regarded as a certain amount of relief. With your permission I beg to move this amendment.

Rai RADHA CHARAN PAL Bahadur: May I know how does it stand?

Mr. H. E. SPRY: Sub-clause (2) will read as follows:—

" When the amount or value of the sub-matter exceeds fifty rupees but does not exceed five hundred rupees—the sum of six rupees four annas and three annas in the rupee on the excess of such amount or value over fifty rupees.

In sub-clause (3) words ' ninety rupees ten annas ' are to be substituted for ' the words ' ninety-three rupees twelve annas,"

The first amendment of Babu Amulya Dhone Addy was then put and lost.

The next amendment of Babu Amulya Dhone Addy was then, by leave of the Council, withdrawn.

The amendment of Rai Radha Charan Pal Bahadur was then put and lost.

Mr. H. E. Spry's amendment was then put and agreed to.

Rai RADHA CHARAN PAL Bahadur: As far as I can understand what is meant is that if the claim is for Rs. 500, the first Rs. 50 will be charged at two annas in the rupee and the rest will be three annas in the rupee.

Mr. H. E. SPRY: Exactly so. Rupees 6-4-0 is the rate on Rs. 50 at two annas in the rupee, and to that you add three annas for every rupee in excess of Rs. 50.

Babu AMULYA DHONE ADDY: May I ask that the maximum be raised from Rs. 50 to Rs. 70?

The DEPUTY-PRESIDENT: The question is that clause 15, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 16.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 16 stand part of the Bill.

The following amendment, standing in the name of Rai Mahendra Chandra Mitra Bahadur, was, in the absence of the member, deemed to be withdrawn:—

That at the end of clause 16 the following words be added, namely,—

' or to cases in which a portion of the said fee has been paid, prior to the commencement of this Act, and the court in its exercise of the power vested in it under section 149 of the Code of Civil Procedure, 1908, grants extension of time for the payment of the balance of the fee payable under the law.'

The DEPUTY-PRESIDENT: The question is that clause 16 stand part of the Bill.

The motion was put and agreed to.

The Schedule.

The DEPUTY-PRESIDENT: The question I now have to put is that the Schedule stand part of the Bill.

The Hon'ble Mr. J. H. KERR: I move that in the heading to the Schedule, after the word ' Court-fees ' the brackets and word '(Amendment)' be inserted.

The motion was put and agreed to.

The Hon'ble Mr. J. H. KERR: I now move the amendment consequential on the alterations which the Council made in regard to clause 5.

That in the table of rates of *ad valorem* fees for the sums shown in column 3 from Rs. 4-4-0 to Rs. 16-14-0 the following be substituted:—

Rs.	A.
4	2
4	8
4	14
5	4
5	10
6	2
6	10
7	2
7	10
8	2
9	12
11	6
13	0
14	10
16	4

The motion was put and agreed to.

The DEPUTY-PRESIDENT: The question I now have to put is that the Schedule, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 9

The DEPUTY-PRESIDENT: The question I now have to put is that clause 9 stand part of the Bill.

The motion was put and agreed to.

Preamble.

The DEPUTY-PRESIDENT: The question I now have to put is that the Preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. J. H. KERR: I beg to move that the Bill, as settled in Council, be passed.

Rai RADHA CHARAN PAL Bahadur: I congratulate the Hon'ble Mr. Kerr.

Babu AMULYA DHONE ADDY: I oppose the passing of the Bill, because I am sure the revenue will materially come down owing to the increased rate of duty. I oppose it because I am sure that it will strengthen the hands of the non-co-operators, because I am sure it will create greater unrest and will seriously affect the administration of justice. I oppose it because some of the important public bodies of Calcutta, especially the Bengal Chamber of Commerce have strongly opposed it. I find that even some of the divisional officers in the mufassal have strongly opposed it. It may be said that if this Bill is not passed, it will be very difficult to meet the deficit. But, Sir, as I have already suggested we should try our best to reduce the expenditure on police—expenditure on the salaries of Provincial Services and of ministerial officers. It is proposed to spend three crores of rupees on the construction of a new bridge over the Hooghly; it can be easily postponed. Then there is the Grand Trunk canal; it can also easily wait——

The DEPUTY-PRESIDENT: In your speech you cannot deal with the whole administration of the Government of Bengal at this stage.

Babu AMULYA DHONE ADDY: It will create, as I have already said, greater unrest and will seriously affect the administration of justice. So I appeal to the Council to vote against the passing of the Court-fees Bill which is the worst of the three taxation Bills before us.

Rai RADHA CHARAN PAL Bahadur: I have only a few words to say with regard to the passing of the Bill. I will not take more than three minutes by the clock. In the first place I must say that I fully associate myself with the observations that have fallen from my friend Babu Amulya Dhone Addy, but it is no use crying over spilt milk. As regards unrest and discontent, it is well known to Government. Now that Mr. Montagu is no longer in office, specific medicines will be applied to deal with them.

The DEPUTY-PRESIDENT: You are out of order.

Rai RADHA CHARAN PAL Bahadur: I will not dilate on the point, Sir, if you do not like. But let me repeat that if, in consequence of the passing of these Bills, there is a greater unrest in the country, specific medicines will be applied to put down that discontent also.

My friend referred to the police. I am afraid that the Hon'ble Sir Henry Wheeler is so much tired of hearing of the police that the moment he heard the word uttered, he left the Chamber.

I must pay a tribute to the Hon'ble Mr. Kerr and Mr. Spry for the ability, tact and temper with which they have conducted the Bill. I am paying this compliment not in a merely conventional manner with a view to curry favour with him, but I sincerely admire his tact and temper in conducting the debate and his self-confidence about the massacre of the amendments. He had only to put up with our useless, ineffective, rhetoric. But all the same, I congratulate him on his tact and ability as well as on that of his able lieutenant, Mr. Spry.

Babu KISHORI MOHAN CHAUDHURI: I beg to say a few words with regard to the question before the House, namely, whether the Bill should be passed or not. While I congratulate the Hon'ble the Finance Member on the tact and ability with which he has conducted the whole debate, I cannot but associate myself with the remarks of my friend Babu Amulya Dhone Addy and I oppose the motion.

Rai JOGENDRA CHUNDER GHOSE Bahadur: I opposed the introduction of the Bill and I oppose it now. I do not desire that this serious matter should be passed off amidst laughter. I do not agree with my friend, Rai Radha Charan Pal Bahadur, that the Government well know its way of dealing with discontent. I believe that this matter of taxation is the result of one of the actions of the Rai Bahadur himself. We know that Rs. 60 lakhs were passed as increase of the salaries of high officers and that is one of the reasons why we have got these three taxation Bills which we ourselves, our children and our children's children shall have to bear.

I strongly oppose the passing of the Bill.

The DEPUTY-PRESIDENT: The question is that the Bill, as settled in Council, be passed.

The motion was put and agree to without a division

The DEPUTY-PRESIDENT: I have received the following message just now from His Excellency:—

"A desire has been expressed by members of the Council to place on record their appreciation of Mr. Montagu's services to India and to convey to him an expression of the Council's gratitude.

It cannot be said that the matter is one which is primarily the concern of the local Government and the resolution cannot be moved as a matter of course. In view, however, of the special circumstances of the case, and of the fact that the Legislative Council of other provinces have been given an opportunity of expressing their feelings on the matter, I am prepared to give half an hour of Government time on March 15th for the discussion of the resolution on condition that speeches are confined to expressions of appreciation of Mr. Montagu's services and of regret at their termination, and that comment upon the attitude or action of His Majesty's Government or on the foreign policy of His Majesty's Government, which are matters beyond the purview of the Council and would consequently be inadmissible under the rules, is scrupulously avoided."

There is another matter which I would bring to your notice. There is a proposal to have a photograph of His Excellency the Governor along with the members of the Council. For that reason I am going to ask His Excellency to be gracious enough to sit for a photograph along with the members of the Council.

Adjournment.

The Council adjourned till Wednesday, the 15th March, 1922, at 3-30 P.M. in the Town Hall, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber, in the Town Hall, Calcutta, on Wednesday, the 15th March, 1922, at 2-30 P.M.

Present:

The Deputy-President in the Chair, the Hon'ble the four Members of the Executive Council, the Hon'ble the three Ministers, and 92 nominated and elected members.

Starred Question

(to which oral answer was given).

Financial affairs of the Calcutta University.

*XXXIII. **Babu DEVENDRA LAL KHAN:** (*a*) In continuation of my starred question No. III asked at the meeting of the 17th January last, will the Hon'ble the Minister in charge of the Department of Education be pleased to state whether the views of the Calcutta University have since been received by the Government?

(*b*) If so, will the Hon'ble the Minister be pleased to lay the same on the table?

(*c*) If the answer to (*a*) is in the negative, will the Hon'ble the Minister be pleased to state what further action, if any, are the Government contemplating taking in the matter?

MINISTER in charge of DEPARTMENT of EDUCATION (the Hon'ble Mr. P. C. Mitter): The matter has been considered by the Syndicate, and is about to be considered by the Senate. The University have been requested, and have promised, to communicate their views with little further delay. In the circumstances no answer to (*c*) appears to be called for.

I may add with your permission, Sir, that just as I was coming to the Council, I got a communication from the University.

Unstarred Questions

(answers to which were laid on the table).

Damodar Canal project.

222. **Raja MANILALL SINGH ROY:** Will the Hon'ble the Member in charge of the Department of Irrigation be pleased to state

what steps, if any, have been taken in regard to the working up of the Damodar Canal project since his statement at the last November session of the Council to the effect that after investigations were made, he would again consult his Standing Committee on the subject and act on their recommendations?

MEMBER in charge of DEPARTMENT of IRRIGATION (the Hon'ble the Maharajadhiraja Bahadur of Burdwan): The project is now being worked out in detail in the Irrigation Department, and when that is completed the question of consulting the Standing Committee on the subject will be gone into.

Suspension of work for "Jumma" prayers.

233. SHAH SYED EMDADUL HAQ: (*a*) Will the Hon'ble the Member in charge of the Appointment Department be pleased to state why full effect to my resolution passed in the April session of the Council about the suspension of work for *Jumma* prayers has not been given in the offices, Government institutions and Criminal and Revenue Courts?

(*b*) Will the Hon'ble the Member be pleased to state whether the Government are unable to give effect to the above resolution because of the provisions of the Negotiable Instruments Act?

(*c*) Is the Hon'ble the Member aware that my resolution was not for Muhammadan employees only?

(*d*) Is the Hon'ble the Member aware that the circular Nos. 3186-3211 A., dated Calcutta, the 21st April, 1921, which was referred to in the reply to my unstarred question No. 9 of 19th December, 1921, does not tally with my resolution?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Sir Henry Wheeler): The member is referred to the speech of the Hon'ble Member in charge in the debate on the resolution in question, which explained the attitude of Government in the matter.

Work in connection with the mitigation of the Damodar flood.

234. Rai LALIT MOHAN SINGH ROY Bahadur: Will the Hon'ble the Member in charge of the Department of Irrigation be pleased to state—

(*i*) whether it is proposed to take up this year any new work in connection with the mitigation of the Damodar flood;

(ii) what works are already in hand, and to be continued this year; and

(iii) which of the works already in hand are likely to be finished within the year 1922-23?

The Hon'ble the MAHARAJADHIRAJA BAHADUR of BURDWAN: (i) Yes; the Arora khal project.

(ii) The works already in hand and to be continued this year are—(a) remodelling the Hoorhoora khal; (b) constructing refuge mounds on the right bank of the Damodar; and (c) the Arora khal project.

(iii) None. If, however, the dredger *Cowley* can commence work by next October, item (a) will probably be completed by the end of the next year, and if funds are forthcoming, item (b) can be completed by 1922-23.

Travelling and halting allowances of the Hon'ble the Executive Members and Ministers.

235. Rai Dr. HARIDHAN DUTT Bahadur: (a) Will the Hon'ble the Member in charge of the Department of Finance be pleased to lay on the table a statement showing—

(i) the rate and scale of travelling and halting allowances allowed to the Members of the Executive Council and the Ministers, respectively; and

(ii) the total sum that has been paid as travelling and halting charges (to be shown separately) to each of the Members and the Ministers from January, 1921, to the 31st December, 1921?

(b) Are the Government contemplating altering the rate or scale of these allowances?

(c) If so, are the Government considering the desirability of placing the proposal for any such alteration before the Council for discussion and sanction?

MEMBER in charge of DEPARTMENT of FINANCE (the Hon'ble Mr. J. H. Kerr): (a) (i) Travelling allowances of Members of the Executive Council and of Ministers are regulated by Chapter III, section IX, sub-section (IV), rules 70-71, and Chapter III, section IX, sub-section (IV), rules 68-69, of the subsidiary rules made by the Governor in Council and the Governor, respectively, under the Fundamental Rules.

(ii) Members and Ministers are not entitled to halting allowance. A statement is laid on the Library table showing the amounts paid to the railways for haulage of railway carriages, which have been adjusted up to date by the Accountant-General, Bengal, through the Exchange accounts.

(*b*) No.

(*c*) The question does not arise.

Barasat-Basirhat Light Railway.

236. Rai HARENDRANATH CHAUDHURI: Is the Hon'ble the Minister in charge of the Department of Public Works aware—

(*i*) that from Barasat to Taki Road station, the Barasat-Basirhat Light Railway passes along the main road which connects the Barasat and Basirhat subdivisions;

(*ii*) that the railway lines are not fenced in, to prevent men and animals crossing the lines;

(*iii*) that accidents frequently occur, resulting in loss of life; and

(*iv*) that on the 6th February last a woman was run over near Deganga station on the same line?

MINISTER in charge of DEPARTMENT of PUBLIC WORKS (The Hon'ble the Nawab Saiyid Nawab Ali Chaudhuri Khan Bahadur): (*i*) Yes.

(*ii*) Yes.

(*iii*) Three accidents occurred during the year 1921, one being reported as having resulted in loss of life.

(*iv*) No report of the alleged accident has been received.

Number of appraisers in the Calcutta Customs.

237. Khan Bahadur Maulvi MUHAMMAD ERSHAD ALI KHAN CHAUDHURI: Will the Hon'ble the Member in charge of the Department of Finance be pleased to state how many appraisers there are in the Calcutta Customs, and how many of them are Hindus and how many Muhammadans?

The Hon'ble Mr. J. H. KERR: There are 27 substantive appraisers attached to the Calcutta Custom House, of whom five are Hindus and one is a Muhammadan.

Indians in the Preventive Service.

238. Khan Bahadur Maulvi MUHAMMAD ERSHAD ALI KHAN CHAUDHURI: (*a*) Will the Hon'ble the Member in charge of the Department of Finance be pleased to state what is the percentage of Indians that was sanctioned by the Secretary of State for India, for appointment in the Preventive Service, Calcutta Customs?

(*b*) When was this percentage sanctioned and from what date have the Bengal Government given effect to it?

(*c*) Will the Hon'ble the Member be pleased to state—

(*i*) the total number of Preventive Officers in the Calcutta Customs;

(ii) how many of them are Muhammadans; and
(iii) how many of them are Hindus?

The Hon'ble Mr. J. H. KERR: (*a*) The Secretary of State for India has not issued any orders fixing the proportion of Indians to be recruited for the Calcutta Customs Preventive Service, which is open to suitable applicants, who are British subjects, of any race.

(*b*) and (*c*) Including Inspectors, the total number of Preventive Officers in the Calcutta Customs is 210. Of these, seven are Muhammadans, eleven Hindus, and there are three other Indians, of whom one is a Brahmo and two are Indian Christians. These twenty-one officers have been appointed since January, 1920.

Proportion of Muhammadan students in the Dacca University.

239. Maulvi FAZLAL KARIM: (*a*) Will the Hon'ble the Minister in charge of the Department of Education be pleased to lay on the table a statement showing the number of Muhammadan students in the Dacca University and their proportion to the students of other communities in each class?

(*b*) Are there any stipends or other special privileges for the Muhammadan students of that University?

(*c*) If so, what are those privileges?

(*d*) If not, are the Government considering the desirability of granting stipends to the poor deserving Muhammadan boys to enable them to prosecute their studies there?

The Hon'ble Mr. P. C. MITTER: (*a*) The number of students of the Dacca University for the session 1921-22 are as follows:—

	Muhammadans.	Other communities.
1st year B.A. ...	65	130
2nd year B.A. ...	46	185
1st year B.Sc. ...	2	65
2nd year B.Sc. ...	1	35
1st year M.A. ...	21	75
2nd year M.A. ...	1	17
1st year M.Sc. ...	1	21
2nd year M.Sc. ...	...	9
1st year Law ...	19	53
2nd year Law ...	17	58
3rd year Law ...	5	51
B.T. ...	21	29
L.T. ...	5	12
Total ...	204	740

(*b*) and (*c*) The University has allocated Rs. 6,000 a year in stipends for the Muslim Hall as against Rs. 5,000 for the other two halls. There are 19 stipends of Rs. 5 per month, tenable for two years.

Four post-graduate scholarships of Rs. 32 per month (of which two are reserved for students of the Muslim Hall) have been awarded to Muhammadan students. Besides this there are scholarships and stipends from other sources enjoyed by Muhammadan students, viz.—

Two Nawab Sir Ahsanulla stipends of Rs. 6 each.

Four stipends of Rs. 5 each given by the Dacca Muhammadan Education Society.

Five special Mohsin stipends of Rs. 5 each.

Two Assam Government senior scholarships of Rs. 15 each.

Three Government ordinary senior scholarships of Rs. 5 each.

Four Muhammadan special senior scholarships of Rs. 10 each.

One Government Mohsin senior scholarship of Rs. 14.

Four college Mohsin scholarships of Rs. 5 each.

Two Muhammadan Education Fund settlement scholarships of the value of Rs. 90 each per annum.

One Nawabzadi Akhtar Bano scholarship of Rs. 10.

The Hon'ble the Nawab Saiyid Nawab Ali Chaudhuri, C.I.E., has transferred to the University a sum of Rs. 16,000, of which the income will normally be distributed in stipends to Muhammadan students. This year a part of the income from this money is being utilised for the payment of examination fees of poor students. The whole income of the fund will be available as from the beginning of next session. In addition to the privileges enumerated above, there are four scholarships of Rs. 12 each and six stipends of Rs. 8 each, awarded on the result of the Special Islamic Matriculation Examination.

Government are also considering the question of the creation of certain scholarships and stipends tenable in the Dacca University to be awarded on the result of the Special Islamic Intermediate Examination.

Purchase of the "Calcutta Review" by the Calcutta University.

240. Babu DEVENDRA LAL KHAN: (*a*) Is the Hon'ble the Minister in charge of the Department of Education aware that the *Calcutta Review* has been purchased by the Calcutta University?

(*b*) If so, how much has that purchase cost the University and how much has been budgetted for its maintenance?

(*c*) Has the University given any reasons for its conducting the paper?

The Hon'ble Mr. P. C. MITTER: (*a*) Yes.

(*b*) Rupees 1,500. Nothing has been budgeted for its maintenance.

(*e*) No reasons for the purchase have been recorded in the University proceedings, but the University has forwarded to Government a note, the substance of which is laid on the table.

Extract of a note by the Calcutta University regarding the purchase of the "Calcutta Review."

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If dissemination of knowledge is regarded as one of the functions of a modern University, there is no reason why the University should not provide means for placing the learned contributions of its eminent scholars before the reading public. Researches and investigations into more or less abstruse subjects which can be appreciated by experts only might find their place in the Journal of the Department of Letters or the Journal of the Department of Science, started in February, 1920, and November, 1919, respectively, but contributions of general interest meant for a wider circle of readers could not hitherto be preserved and published by the University itself for want of a magazine suited to the purpose.

The *Calcutta Review*, besides providing a common intellectual meeting ground for its alumni, is making itself extremely useful in placing University affairs before the public. The importance and usefulness of this Review in this respect and particularly, at this stage of the history of the University, cannot be overestimated. The Review, moreover, is gradually enabling the University to take the public into its confidence and to enlist their sympathy by bringing them into intimate touch with its activities by educating them as to its needs and requirements and by enlightening them as to the remarkable progress it has achieved within a brief compass of time.

Travelling allowances drawn by certain officers of the Department of Agriculture and Industries.

241. Babu KISHORI MOHAN CHAUDHURI: Will the Hon'ble the Minister in charge of the Department of Agriculture and Industries be pleased to lay on the table a statement showing the amounts drawn as travelling allowances by the following officers during the period 1918-19 to 1921-22 (up to December, 1921), noting the annual salary of each such officer:—

(*i*) peripatetic officers of the Agriculture Department not below the rank of the district agricultural officer;

(*ii*) peripatetic officers of the Industries Department not below the rank of circle officer;

(*iii*) peripatetic officers of the Co-operative Department not below the rank of Inspector; and

(*iv*) peripatetic officers of the Excise Department not below the rank of inspector?

MINISTER in charge of DEPARTMENT of AGRICULTURE and INDUSTRIES (the Hon'ble the Nawab Saiyid Nawab Ali Chaudhuri Khan Bahadur): (*i*), (*ii*), (*iii*) and (*iv*) A statement is laid on the table.

Statement referred to in the reply to unstarred question No. 241, showing the amounts drawn, as travelling allowances by the officers of the Agriculture, Industries, Co-operative Societies and Excise Departments.

Designation of officers.	Present rate of salary (annual).	Travelling allowance drawn in—			
		1918-19.	1919-20	1920-21.	1921-22 (up to December 1921).
AGRICULTURAL DEPARTMENT.	Rs.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs A. P.
Director of Agriculture	24,600	3,520 0 0	3,619 14 4	4,691 15 4	3,110 11 9
Deputy Director of Agriculture, Eastern Circle.	16,800	5,769 2 6	2,371 14 0	2,079 5 0	2,914 4 6
Deputy Director of Agriculture, Western Circle.	6,000	4,414 5 0	3,856 12 6	5,762 6 0	3,350 12 9
Deputy Director of Agriculture, Northern Circle.	4,800	.....	1,350 0 0	4,345 15 9	2,962 5 0
Fibre Expert to Government ...	18,600	2,400 2 1	1,806 9 0	1,389 10 0	1,289 4 6
First Economic Botanist ...	13,800	2,251 10 0	2,470 12 9	1,112 3 0	1,057 7 6
Second ditto ...	4,800	.....	.....	.....	1,2 9 0 0
Agricultural Chemist ...	6,600	.....	.....	1,906 14 0	1,396 11 6
Deputy Director of Sericulture	5,400	.....	.....	.....	2,796 12 6
Six Superintendents of Agriculture.	5,664 each (average)	7,490 0 11	8,617 5 3	11,980 3 9	8,258 14 6
Two Superintendents of Sericulture.	5,664 each (average)	3,786 1 4	3,152 6 0	5,838 0 0	1,857 12 3
Thirty-five District Agricultural officers.	1,800 each (average)	14,502 9 3	25,097 12 9	33,867 4 3	26,468 13 9
INDUSTRIES DEPARTMENT.					
Director of Industries, Bengal ...	25,200	.....	.....	1,838 15 0	1,196 7 6
Deputy Director of Industries, Bengal.	21,600	.....	.....	996 6 0	727 12 9
Industrial Intelligence Officer ...	16,000	.....	.....	599 2 0	74 9 0
Inspector of Technical and Industrial Institutions.	18,000	.....	.....	900 4 0	601 13 0
Superintendent of Industries, Presidency Division.	4,320	.....	.....	76 10 0	549 6 0
Superintendent of Industries, Burdwan Division.	2,640	.....	.....	317 9 9	1,125 15 3
Superintendent of Industries, Jalpaiguri Division.	2,640	.....	.....	791 9 6	1,408 1 9
Superintendent of Industries, Chittagong Division.	3,000	.....	.....	340 9 9	1,873 12 9
Superintendent of Industries, Bihar Division.	4,320	.....	.....	961 9 6	1,583 7 6

Designation of officers.	Present rate of salary (central).	Travelling allowance drawn in—			
		1919-19.	1919-20.	1920-21.	1921-22 (up to December 1921).
	Rs.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
CO-OPERATIVE DEPARTMENT.					
Registrar	18,000	3,360 13 6	3,609 2 0	1,613 4 0	1,396 14 0
Deputy Registrar	15,000	...	...	1,389 0 0	2,092 11 0
Assistant Registrar, Dacca Division.	7,200	2,103 9 3	3,992 14 10	2,802 0 6	1,590 11 6
Assistant Registrar, Presidency and Burdwan Divisions.	8,400	3,607 2 10	3,279 6 0	2,864 10 0	1,664 14 0
Assistant Registrar, Rajshahi Division.	6,600	2,572 4 6	2,483 0 9	1,963 2 0	1,478 14 0
Assistant Registrar, Industrial Co-operative Societies.	7,200	1,702 0 3	3,316 9 3	3,013 6 9	834 8 0
Assistant Registrar, Chittagong Division.	5,400	...	...	...	660 9 0
Chief Auditor	3,480	853 10 0	114 4 0	341 5 9	70 9 0
Divisional Auditors (2)	2,400 to 2,640 (each)	340 0 0	1,794 7 6	1,126 12 6	780 2 6
Inspectors*	..	28,731 7 5	29,636 13 7	31,202 7 10	26,111 7 9
EXCISE DEPARTMENT.					
Commissioner of Excise and Salt, Bengal.	30,000	1,705 15 6	1,772 10 0	1,690 13 6	634 0 0
Three Deputy Commissioners of Excise and Salt.	12,000 to 14,400 (each).	9,649 3 6	7,478 3 0	11,452 14 0	7,743 1 6
Twenty-seven Superintendents of Excise and Salt.	3,000 to 12,000 (each).	34,314 4 4	40,318 2 0	37,247 11 7	44,064 4 7
Fifty-eight Inspectors of Excise and Salt.	1,800 to 6,000 (each).	41,717 4 3	47,814 7 4	35,647 3 10	42,136 8 5

* (i) Fourteen Sub-Deputy Collectors on time-scale pay *plus* duty allowance of Rs. 50.
(ii) Two Sub-Registrars, on grade pay *plus* duty allowance of Rs. 50.
(iii) Non-gazetted —

One on Rs. 150—10—200 per mensem.
Six on Rs. 100—10—150 ,,
Forty-two on Rs. 105 per mensem.

Resignation of Mr. E. S. Montagu.

Rai JOGENDRA CHUNDER GHOSE Bahadur: I beg to move that "this Council recommends to the Government that a message be sent to Mr. Montagu expressing the Council's deep regret at his resignation and its high appreciation of his services to the cause of Indian progress and liberty which will be remembered with affection and gratitude by the people of Bengal."

A great friend of India has fallen. Mr. Montagu's resignation, I am sorry to find, is not deplored by the extremist and even by many moderate papers and was fiercely acclaimed, as Reuter tells us, by a large section of the British Parliament. He did not please the extremists in England and India, and indeed even the so-called moderates in India. The British people ought to infer from this fact that Mr. Montagu did his duty impartially and fearlessly. The people of India have not yet appreciated what a great friend they have lost. We owe the Reforms to him and we, the members of the Council, are here because of him. Surely as yet the country has not derived much substantial benefit from them. But he who runs may see that the Council have developed a spirit of independence which would have astonished any one 5 years ago. Their resolutions about the release of political prisoners is an instance. Our first acts in this Council were repeated defeats of the Government. I am one of those men who have doubted the wisdom of the actions of this Council on many an occasion and am of opinion that if we were not swayed by opinion outside the Council we might have prevented many unwise and dangerous activities. But the fact remains that powers have been given to the representatives of the people which are very great and which have come to be regarded as dangerous by a large section of the British people and we see from the papers that even Lord Chelmsford, the joint author of the Reforms, has declared the dyarchy as horrible. Mr. Montagu asserted on Sunday last that he has invested India with dominion status. "The people of India, as represented in these Councils have surely for the first time, been invested with some though not many of the political rights which the people of Europe could acquire only by bloody revolutions and untold suffering. This new liberty we owe solely to one man. The blood of a noble ancient Asiatic race courses through the veins of him and is coloured crimson with his heart's sympathy with the aspirations of the ancient people of Asia. Is it to be wondered at that he has some sympathy for Islam? Is it to be wondered at that he sympathises with the thousand-year old degradation of a race more ancient than his which boasts of a higer civilization and higher intellectual achievements and a nobler philosophy than any other race of antiquity? He probably remembered that the common blood which runs through the veins of the Indian Aryan and those of the modern European has been the cause of the present-day intellectual greatness of the latter. Mr. Montagu wanted to take the people of this ancient land by the hand and give them freedom. He wanted them to attain the fullest political freedom in the shortest time possible. There are two paths to freedom before the people of India. One by the immediate subversion of the British Raj by force of arms or by mass disobedience. The second is by ordered progress in *Pax Britannica* in which the warring races and creeds, which rend asunder this distressful country, would fuse into a harmonious whole by the infusion of modern science and modern liberal ideas. Mr. Montagu thought the former led to disaster and ruin. There is a large section of the people of this country who were impatient and desired to force the pace, and in

their anxiety favoured the former course and have probably now seen the unwisdom of their conduct. There were great dangers before Mr. Montagu. He has sacrificed himself to his zeal for us. He took his courage in both hands and trusted the people he desired to serve to stand by him and back him in his efforts and not to destroy the good work of his hand. There are undoubted defects in his system. But it is the first gift of real liberty. His work is now endangered by the impatience of some. We who mourn his downfall must remember our duty to our friend which coincides with our duty to our country. There are times of difficulty and danger before us. We should face the situation with wisdom and calm courage. Let not the applause of the unthinking and desire for notoriety or place or leadership take us from the middle course. I must recognise the fact that we who are here to-day are not the best representatives of the people of Bengal which our Governor-designate has declared to be the home of the intelligensia and the cradle of ideas of freedom in India. We must recognise our unworthiness but we are still the custodians of the liberty and the welfare of this country. Let us not be dismayed by signs and portents. Let us not go from one extreme of unwise rashness to the other extreme of abject submission. Let us be true to ourselves and to our country. Let us realise our responsibility. Let us honour our friend whom circumstances have deprived us by so acting in the best interests of the country as to justify his action in giving us liberty, and let us not give to his and our enemies the excuse they seek. He declared last Sunday in his defence that he believed in the people of India. Let us not belie his trust.

Babu SURENDRA NATH MALLIK: I move that "this Council recommends to the Government to place on record the deep regret of the Council at the resignation of the Right Hon'ble Mr. Montagu of his office as Secretary of State for India and its sense of the high appreciation of the great services which he has rendered to the cause of Indian progress during his tenure of office, the memory of which the people of this province will cherish for all time to come with affection and gratitude."

I beg to move the resolution of which I had the honour of giving notice, though permitted to do so in a somewhat mutilated form, regarding the resignation of the Right Hon'ble Mr. Montagu. We would have been found culpably negligent of our duty as Indians aspiring to a great national life if we had not taken the earliest opportunity of keeping on the record of this Council our humble and heartfelt appreciation of the great services of that Right Hon'ble gentleman in the cause of the uplifting of our poor motherland.

Every Indian who cherishes the prospect of his motherland being raised to the status of a fully self-governing country of a self-respecting people, cannot but entertain ideas of the deepest gratitude for the great Englishman who did his level best to help a subject-race in making a start for responsible Government in their country.

True it is that the Reforms which he could inaugurate have fallen far too short of our expectations and the necessities of the situation, but it must be remembered that not only had he free hand in the matter but that he had actually to fight against great odds and under most depressing circumstances. Vested interests, racial prejudice and arrogance arising out of a superior position all combined against him and he could not do all that he wanted to do out of his unrivalled political sagacity.

Bound unto us by no bonds of race, colour or religion and belonging to a people who are always anxious to further their own national interests at the cost of that of others and specially the weaker ones, his noble spirit knew how to soar far above the low atmosphere of a lower order of imperialism which has helped so much to lower the prestige and the good name of his country in these modern-days.

The motto of His Gracious Majesty the King-Emperor in dealing with His Indian subjects is "sympathy." If ever any servant of the Crown appreciated in full His Majesty's spirit in that respect, it was his last Secretary of State for India.

Such is the misfortune of my motherland that those high servants of the Crown who fatten most on her salt, take the greatest delight in thwarting her interests and kicking her down the ladder. Here was a noble soul, an Englishman, who though not brought up on India's salt, threw himself whole-heartedly in studying the real political situation in India long before he came to occupy that exalted office under the Crown which really controls the fate of this country.

In making that study complete, "industry" and "sympathy" were his greatest assets. No servant of the Crown, howsoever high, ever realised more fully the immense responsibilities of his high office and none could ever bring a mind more free from prejudice against, and more full of sympathy for, those whom Providence had placed into his charge. To be able to treat a subject-race with a scrupulous sense of justice, to consider their aims and aspirations with all that active sympathy which is the birth-right of a noble mind, to subject himself ungrudgingly to malicious attacks from interested or ill-informed persons for the satisfaction of doing his duty as he realised it, by a people placed under his care and control were the high privileges of that great statesman whose loss to us and our destinies we now so deeply deplore. Ever since the days of Lord Ripon the name of no Englishman has been writ so large or so indelible in the heart of our motherland.

Sir, he is one of those great men of England who recognises that he is a man first and an Englishman afterwards. His deep sense of justice to his fellowmen in India is well exemplified by the glorious stand that he took at the time of the Amritsar Debate in July 1920. It is impossible for me at this moment to resist the temptation of quoting a passage from his speech at that time. He said: "Are you going to

keep your hold upon India by terrorism, racial humiliation and subordination and frightfulness or are you going to rest it upon the good-will of the people of India? It is no use passing a great Act of Parliament which proceeded on the principle of partnership for India in the British Commonwealth and then allowing your administration to depend upon terrorism. You have got to act in every department, civil and military, unintermittently upon a desire to recognise India as a partner in your Commonwealth. You have got to safeguard your administration on that order passed by the Parliament. You have got to revise any obsolete ordinance or law which intringes the principles of liberty which you have inculcated into the educated classes of India." Noble words indeed and nobly said.

Sir, Gratitude is instinctive with us and is more than a tradition in oriental minds. We have therefore our hearts now not only full of deep sorrow at the deplorable dissociation of that great mind and noble heart with our destiny at the present critical times, but our hearts are now and shall for ever be full of gratitude and affection for that lion-hearted and noblest specimen of humanity who could rise above all common-place prejudices and withstand all malicious opposition and proceed to do justice to the aims and aspirations of a people anxious to rise in the scale of nations. Like Gladstone and John Bright, the real builders of England's greatness, he had the courage to recognise the primitive rights of brotherman in a down-trodden or even in a subject-race. All honour therefore unto that strong son of God. All honour to him from us as we have no doubt that it was for his genuine sympathy for us and our legitimate aspirations that he has been sacrificed on a frivolous pretext. In his absence we tremble with fear that more of repression for our aspirations will be vouchsafed unto us.

May God bless him and help us.

Rai RADHA CHARAN PAL Bahadur: The dramatic exit of the Right Hon'ble Mr. Montagu, the greatest Secretary of State that India has ever had, from the British Cabinet, has evoked the profoundest grief throughout the length and breadth of this continent. Sir, however divided we may be amongst ourselves in respect of the *modus operandi* of political warfare for the salvation of India, if the true heart of India were searched at this moment, it would indeed be found bleeding. It is not for nothing that Mr. Montagu's resignation is taken in the light of a national calamity at this crisis of the political history of the Indian Empire.

The public life resounds to-day—be it in the Constitutional Club or elsewhere—with the attractive rallying cry of mutual fellow-feelings, comradeship, co-operation, and sympathy between the two races. But, Sir, the present occasion presents a contrast, which is not without its moral and meaning. The ecstasy of cynical jubilation, which

Mr. Montagu's resignation has occasioned in one quarter—and let me hope it has not led Kellner's to run dry—is in marked contrast to the feeling of genuine and widespread regret and despondency, which has filled the hearts of the children of the soil.

It is a truism to say that India has arrived at a critical juncture in the evolution of her political destiny. There may be men who may seek comfort in the hope—out of evil cometh good. But the vast majority apprehend Mr. Montagu's retirement from the helm of affairs as a signal for the reversal of the engine, for the initiation of an era of unmitigated repression and coercion, stifling national aspirations, and deepening and extending the spirit of discontent, which stalks over the land. I devoutly hope the principle and policy, the policy of concilation and sympathy associated with the honoured name of Mr. Montagu, will not be thrown over board and the rule of the mailed fist adopted in its stead. Let not the good work of Mr. Montagu be nullified and negatived in the interest of English party politics, let not Mr. Montagu's dream of an India, self-governing and contented, prosperous and progressive be falsified by reactionary tactics.

India is under a debt of inequitable gratitude to the out-going Secretary of State. It is not for me to recount his services—that will be the business of the future historian. The author of the Reforms, the first instalment of self-government, Mr. Montagu, has sought to elevate India to the status of an equal partner in the dominions of the British Commonwealth. It was through his instrumentality that India was formally represented in the various Imperial and War Conferences, and the League of Nations. To him we owe a larger number of Indian members, both in the Central and the Provincial Cabinets of India, as well as the first Indian Governor. It is he who has made a start—real and effective start—in the Indianisation of the services. To him we are indebted for the fearless and outspoken advocacy of the cause of Indians abroad.

He was the greatest friend India has ever had—greater than a Bentinck, a Canning, a Ripon, great as they were in their own days; and as such he will go down to posterity. All India feels that Mr. Montagu has been sacrificed for his mighteous attempt to set right the unrighteous treaty of Sévres.

However, I have faith in the genius—the liberality—of the British nation; and I devoutly hope that Mr. Montagu will be able to do greater service to India from outside the Cabinet.

Maulvi A. K. FAZL-UL HAQ: I beg to associate myself with all that has been said in paying a tribute of grateful acknowledgment of the work that has been done by Mr. Montagu during his tenure of office as Secretary of State for India. His name will stand high on the rolls as the best and sincerest friend of the Indian people, but more than anything else Mr. Montagu's tenure of office is remarkable to us, the Muhammadans of

India, for the brave stand he made in bringing about a satisfactory solution of the Khilafat question. This is a matter which is of more importance to us than anything else Mr. Montagu has done for the political advancement of the Indian people; not that we are behindhand in acknowledging all that Mr. Montagu has done, but, as I have said, the other aspect of the question appeals to us most and in acknowledging his services in this direction, whatever we now say in acknowledgment, comes from the innermost recesses of our hearts.

I do not wish to take up the time of the Council; I whole-heartedly associate myself with all that has been said.

Mr. HUSEYN SHAHEED SUHRAWARDY: I am not exaggerating in any measure when I say that the resignation of Mr. Montagu has been received by us with consternation and dismay. He is a statesman, Sir, with a breath of outlook such as is rarely vouchsafed to a politician in modern times in an age steeped in materialism and India under his guidance would surely have attained a position in the congeries of nations With an inborn sympathy for the weak and oppressed, he had realised the true significance of this great upheaval that has rent India from end to end and with an inner vision he would have, and must have appreciated the changing conditions and the necessity for an early revision of the Reforms Act. He recognised that the best interests of the Empire, if it were to exist as a federation of equal nations and not as a heterogeneous mass of countries inhabited by persons with unequal rights and governed in the interests of a few, that the best interests of England and of India could only be served by giving to the Indians the place that they in justice deserved to occupy in the eyes of other peoples. The powers of reaction have had their way and brought about the downfall of one who stood in the way of reaction, who worked for freedom with a signal devotion that will surely bring its own reward. The Reforms, whatever they are worth, are nothing without his presence—they are the letter, he was their spirit and his resignation appears to have swept back by decades that day supposed to dawn nine years later when India will get as a free gift her true, and legitimate place in the Councils of nations and indeed we have not failed to notice the jubilation in the Anglo-Indian camp. Few of us, Sir, set store by that period—we who have seen the example of Egypt, we who have noted the history of Home Rule in Ireland and now still fewer believe in its possibility.

And, Sir, he of all understood the yearnings of forlorn people seeking regeneration, and in his vast sympathy recognised the anguish of Islam for the Khilafat.

May he, Sir, and this is our earnest hope, come back triumphant to his seat in the Cabinet in a purer atmosphere to guide once more the destiny of India and her peoples.

MINISTER in charge of DEPARTMENT of LOCAL SELF-GOVERNMENT (the Hon'ble Sir Surendra Nath Banerjea): I desire

whole-heartedly to associate myself with the remarks which have been made by the different speakers, with the expression of sorrow and regret at the resignation of Mr. Montagu and the high sense of appreciation which we all feel of the eminent service which he has rendered to this country. Mr. Montagu's tenure in the India Office was a brilliant one. It was he who first laid down the great end and aim of British rule in India, namely, gradually by progressive stages to introduce responsible Government, so that in the fullness of time India may become an equal partner in the great confederacy of the free states of the British Empire. That was a memorable achievement, the most memorable in the annals of British rule in India, and the message of the 17th August, 1917, was followed, almost as soon as circumstances permitted, by the inauguration of the Reforms. Nor is this all. India is an original member of the league of Nations, and an Indian representative found a place in the Washington Conference, in the Imperial Conference, and in the Genoa Conference. Lastly, Mr. Montagu has been fighting with all the strenuousness he possessed on behalf of the Indian settlers of Kenya and in support of a satisfactory solution of the Khilafat problem. These are achievements of which any Secretary of State might well be proud and for which, when the heat and the dust of present controversies will have been over, and things are seen in their real perspective, India will be truly grateful. A Secretary of State who has opened a new chapter in our national life, who has drawn together in closer bonds the union between England and India, who has laid broad and deep the foundation of responsible Government, so that, in the fullness of time, we may become equal partners in the great British Commonwealth, will for all time to come occupy a high and honoured place in the affectionate gratitude of the people of this country. Mr. Montagu has told us that he believes in India; we also believe in him and we have always believed in him, and to-day, there goes forth from different parts of the country, from the various legislative councils, the voice of united India expressive of our deep sorrow at his resignation, of our high appreciation of his eminent services, coupled with the hope that in the vicissitudes of fortune which attend public life in England, he may once again enter the India Office and resume that exalted position, in the performance of the duties of which he has conferred lasting benefit on the people of India, and may I add, upon the citizens of the British Empire by drawing closer together, India and England in the bonds of an inseparable union. I entirely endorse the views which have been given expression to in this Council, and I hope and trust that they will materialise in some tangible and durable form, so that his bust or his portrait may be in this Legislative Council, and remind us of the eternal debt of gratitude which we owe to the illustrious founder of the Reforms Scheme. I hope and trust that this suggestion will be accepted and carried out. It has been suggested that this should be done for the Legislative Assembly of India, and I do not think that we can follow a better example than by having a bust or better still a statute of Mr. Montagu in our Council.

NAWABZADA K. M. AFZAL Khan Bahadur: On behalf of my constituency, which I have the honour to represent in this Reformed Council, I desire to associate myself most heartily with the resolutions so ably moved by my hon'ble colleagues. We, Indians, are deeply grateful to Mr. Montagu for all that has been achieved during his tenure of office in the interest of India's welfare. Every act of his was actuated by a genuine feeling of sincerity towards India. But for him we would not have met in this Reformed Council. As Muhammadans, my constituency is particularly grateful to him for his earnestly championing the cause of the Khilafat. He has always tried for a satisfactory settlement of the Turkish question with adamantine firmness. His unexpected resignation at this crisis is considered to be a grave misfortune and disastrous to India.

Mr. D. C. GHOSE: I am sure we all welcome the opportunity which has been afforded us of placing on record our sense of appreciation of the eminent services which Mr. Montagu has rendered to India, and our sense of the loss which the country has sustained by the sudden severance of his connection with the India Office. Mr. Montagu's resignation has been acclaimed in certain quarters with an outburst of unholy glee. It becomes all the more necessary, therefore, that we, the accredited spokesmen of our country, we who represent the better mind of this land, should speak out in no uncertain voice to proclaim what we feel about this matter. Say what our opponents will, I assert and I assert with confidence, that the judgment which our country will pronounce upon Mr. Montagu is that he has been far and away the greatest Secretary of State which India has ever seen, one of her truest and sincerest friends and benefactors, one whose love for India was a passion and an obsession and one whose services India could never amply repay. The resignation of such a Secretary of State would at any time be a calamity, a great calamity, but in the circumstances in which it has happened it is nothing short of a disaster of the gravest magnitude.

It is not for me to anticipate the verdict of history, but let me say this, that Mr. Montagu is the one figure of the time who will brighten on the historic canvas, as the other figures will fade, as the great minister with a heart of silver and a head of fine gold.

Both the resolutions of Rai Jogendra Chunder Ghose Bahadur and Babu Surendra Nath Mallik were then put and agreed to.

Government Bills.

The Bengal Amusements Tax Bill, 1922.

Rai JOGENDRA CHUNDER GHOSE Bahadur: I have to make a formal protest against disallowing my resolution about ear-marking the proceeds of this tax for primary education in Calcutta and for—(Cries of "Order, order").

The DEPUTY-PRESIDENT (Babu Surendra Nath Ray): Order! order! You cannot go into that matter now.

The Hon'ble Mr. J. H. KERR: I move that the Bengal Amusements Tax Bill, 1922, as reported on by the Select Committee be taken into consideration.

I think that it will be convenient if I refer briefly at this stage to two rather important modifications in the Bill which Government propose to lay before the Council. The first of these is a proposal that the operation of this tax, so far as it affects theatres, cinemas, circuses and other similar entertainments, should be postponed till the 1st of October. The Select Committee's report shows that they were impressed by the present slump in the entertainment industry in Calcutta. They reduced the rates chargeable for admission to such entertainments in order to meet that position, but it has been urged upon us that a mere reduction of rates is not sufficient. The theatrical and cinema enterprises in Calcutta are at present suffering, because there are too many of them; but at the same time there is a large body of the public, as the figures show, who resort to such places. The attendance, however, at these places during the hot weather is very much less for several reasons than in the cold weather. To an industry in such a depressed state working at the slackest season of the year, when very often they do not cover their expenses or at any rate some of them do not, a new tax of this nature is bound to be difficult to pass on to the public. In order, therefore, to put the theatrical and cinema enterprises in a more favourable position to pass on the tax, we propose that the operation of this tax, so far as they are concerned, should be postponed till the 1st October ("Hear, hear"). We do not propose, however, to adopt that course in regard to other forms of entertainments, such as races, because there the public are not affected to the same extent by seasonal considerations; at any rate, the Turf Club is able to pass on the tax to the people who resort to the races. That, Sir, is the first modification we propose to make in the Bill.

The second provision concerns the tax on betting which is dealt with in clause 17 of the Bill. The rate, as it stands at present, is 2½ per cent. As I explained to the Council, when introducing the Bill, we adopted that rate as we thought that it would be practically equivalent to the tax we imposed on the totalisator. A further study of the question, however, shows that the cases are not on all fours. I do not propose to go into details at present; but the result of our inquiries indicates that a tax of 4 per cent. on betting and on bookmakers would be more or less equivalent to the tax which we propose to put on the totalisator. My suggestion therefore is that this tax in clause 17 should be raised from 2½ per cent. to 4 per cent.

I would point out that the result of the two changes I have just mentioned will be that the bulk of the proceeds of the amusement tax will

come from the race-going public. As far as we can ascertain race-going public will pay Rs. 10 lakhs out of the totalisators' takings; then they will pay Rs. 18½ lakhs by way of deduction from the winnings on bets with bookmakers. They will further pay over Rs. 2 lakhs on their admission tickets; that is to say, the race-going public will pay about Rs. 30 lakhs out of the Rs. 35 lakhs which we anticipate from the proceeds of this Bill, if the other entertainment taxes are left in their present form. There are amendments in the agenda paper recommending that we should take even larger sums from the race-going public; but with regard to them, I would suggest to the Council that the sum of Rs. 30 lakhs is very considerable and that we might very well rest content with it, at any rate, during the initial operation of the Bill.

The DEPUTY-PRESIDENT: The question is that the Bengal Amusements Tax Bill, 1922, as reported on by the Select Committee be taken into consideration.

The motion was put and agreed to.

Mr. J. CAMPBELL FORRESTER: I do not quite understand the position. Is it that the Bill is under consideration or are the amendments withdrawn?

The DEPUTY-PRESIDENT: The Bill, as reported on by the Select Committee, will be taken into consideration, clause by clause.

The preamble to the Bill will be taken up last.

Clause 1.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 1 stand part of the Bill.

Babu KISHORI MOHAN CHAUDHURI: On reconsideration I think that I should postpone the consideration of my amendment.

The following motion was then postponed:

that in clause 1(3), line 1, for the word 'force' the word 'operation' be substituted.

Rai RADHA CHARAN PAL Bahadur: I move that in clause 1 (3), for the words 'it shall come into force on the first day of April, 1922,' the following be substituted, namely,—

'It shall come into force on the first day of October, 1922.'

I need not dwell at length on this amendment. I understand that it will be partially accepted by the Hon'ble Member in charge. It is for him to say whether he will accept it as it stands. So far as I know, I think he will accept it, and thus as far as cinemas, theatres and circuses are concerned, the Bill will come into operation from the 1st of October.

The Hon'ble Mr. J. H. KERR: The effect of this amendment would be to prevent our levying the tax on the Darjeeling races, on the Monsoon races which take place in Calcutta and various other races which are run during the rains at Tollygunge and Barrackpore. I do not know whether the member is in favour of postponing the operation of this Act in respect of these races till the 1st October, but I myself would deprecate it. There is no reason, I think, why we should not impose the tax immediately on races and other entertainments of that kind.

What I propose to do, with your permission, Sir, is, when we come to clause 3, to move an amendment to the following effect:—

"The entertainments tax in the case of theatres, cinemas, exhibitions, circuses and any other class of entertainments which the local Government may direct, shall be charged, levied and paid with effect from the 1st day of October, 1922."

We have put in "any other class of entertainments," because it is possible that we may find other entertainments, besides theatres, cinemas and circuses which are in a similar position, that is to say, are suffering from the present slump in trade in Calcutta. If that amendment will meet the Rai Bahadur's view, he will perhaps withdraw his amendment and allow me to move my amendment later.

Rai RADHA CHARAN PAL Bahadur: I am very glad to follow the advice of the Hon'ble Member in charge and to heartily co-operate with him.

The motion was then, by leave of the Council, withdrawn.

Rai RADHA CHARAN PAL Bahadur: I move that in clause 1 (3) (*b*) (*i*), the words 'excepting the portion thereof included within the ramparts of the Fort' be omitted.

As the House will find, the Fort premises are entirely excluded from the operation of this Act. This question was raised in the Select Committee and as far as I remember, no strong ground was urged why the Fort should be excluded from the operation of this Act. As we know, there are certain occasions when tournaments and gymkhanas are held to which the public have to pay something in order to get admission. Therefore I do not see why the Fort should be excluded. I think that the Corporation was also of the same opinion. On these grounds, I submit that the Fort should be included in area of the operation of this Act.

SECRETARY to GOVERNMENT, FINANCE DEPARTMENT (Mr. H. E. Spry): The first reason why it is proposed to exempt, under this Bill, the area contained within the ramparts of the Fort is because Government are advised that the numbers of entertainments given within that area, which would be liable to the Entertainments Tax, would be

very few, probably not more than three or four a year. It seems doubtful if the admission fee for the majority of the persons who attend these entertainments would be sufficiently large to come within the scope of this Bill; and the income derived would therefore be almost negligible. In addition, Sir, there was another reason which had considerable weight in inducing Government to exclude this area. As the members of the House know when the Entertainments Tax is put in force, it will be necessary to employ inspecting officers to go round and see that the provisions of the law are not being evaded, and it was thought by Government that it was undesirable that inspecting officers, be they Indians or be they Europeans, should go into the fort at night in order to ascertain if an entertainment within the scope of this Bill is being held or not. I think, Sir, the House will realise what the fate of the inspecting officer, who walked into Fort William at night, in order to find out if the tax was properly levied or not, might be a little unpleasant. At any rate, it is quite possible that some sort of friction might arise, and inasmuch as the total amount of the tax obtained from entertainments in the Fort would be extremely small, it was felt that it would be much better to exempt this area from the scope of this Bill. That, Sir, is the view taken by Government, and shared by the military authorities, and I submit that it is a reasonable one; perhaps in view of what I have said, the Rai Bahadur will find that there is sufficient ground for excluding this area—within the ramparts of the Fort—from the operation of this Bill.

Rai Dr. HARIDHAN DUTT Bahadur: I am very sorry that I have not been impressed by what has been said by Mr. Spry. We raised this question in the Corporation and it was considered by the Corporation Committee, and we were given to understand by the authorities that an inquiry would be made as to why the ramparts of the Fort William have been excluded from the operation of this Act. The reply that has been obtained from Mr. Spry does not convince us as to the justice of this exclusion. It has been said that it may be dangerous for the inspectors to go into the Fort at night to find out what was going on there. If that be the actual state of affairs in Fort William, then I do not quite know——

Mr. H. E. SPRY: May I rise to a point of order? I should like to correct the member. I did not say "dangerous," but I said "undesirable."

Rai Dr. HARIDHAN DUTT Bahadur: Even it may be undesirable; but I do not make much distinction between undesirable and dangerous. But, whatever that may be, Sir, I may respectfully point out that in the Bill, as drafted, there is a provision in clause 7(*b*) that the local Government may, by general or special order, exempt any entertainment or class of entertainments from liability to the entertainments tax. If the Government found that it was necessary to exemp

any particular class of entertainments from the operation of the Act, they might easily do so under the provision I have quoted. I therefore fail to understand why in the beginning, although the Fort is not technically a part of Calcutta but practically it is a part and parcel of it, it should be exempted altogether from the operations of this Act.

Khan Bahadur Maulvi WASIMUDDIN AHMED: The taxation Bills concerning the poor have fared well and now this Bill is for taxing the amusements hunters. I find that the first resolution that has been moved and offered for consideration of the House is against the Government. Though the members are anxious to put more revenue into the pocket of the Government, the latter are at the same time anxious to exclude a secure place within the ramparts of the Fort William from the operation of this Act simply because long purses are here concerned and because the big folks will be able to secure some tickets of the entertainments that will be held there either for money or for favour, and because it would be dangerous for inspectors to go into that place. We, of course, appreciate the argument that it would be dangerous to go there, but I think the force of the British Army is nothing as compared with the powers of the Government. The Government have said that the British soldiers are lions at war and lambs at home, and I do not think these lambs will interfere with the inspectors. There is no danger of any friction arising. With regard to the revenue, I think, no matter whether it pays a larger revenue or a smaller revenue, if the principle be conceded, the question is whether the Fort William is entitled to any consideration for concession. We pleaded in vain for concession to the poor—the very poor who cannot have more than one meal a day, but they were brushed aside as unworthy and unfit for consideration by this vast Assembly. But whether it would mean a larger revenue or a smaller revenue should be no consideration. I think the House will accept the amendment of Rai Radha Charan Pal Bahadur as it involves a question of principle and I hope the members will not waver for the sake of a few big persons having long purses.

The Hon'ble Mr. J. H. KERR: I do not know whether the members who have spoken on this amendment have ever been inside the Fort. The expression "within the ramparts of the Fort" means within the moat which surrounds the Fort, and members who have visited the Fort well know that there are sentries at each entrance gate who stand there day and night and they are authorised and entitled to challenge people who go into the Fort. Then, we have ascertained that there are few entertainments held in the Fort which will be affected by this Bill: they are what are popularly known as Tommies' gaffs which are got up for their own amusement by the soldiers; the ordinary price of admission is eight annas or less. We

are told that the officers sometimes pay Re. 1 or Rs. 2 by way of encouraging their men; but the most we could get from any one of these entertainments by the imposition of this tax would certainly not exceed, I should think, Rs. 12 or Rs. 15 and as there are only three or four entertainments a year, the annual revenue would be well below Rs. 100. Now, if we had an inspecting officer going in to see that we were not done out of this small amount, he would have to get through the sentries at the gate before he could get inside into the place where the entertainments were taking place; and he would perhaps find that the soldiers who were running the shows had been careless in complying with the regulations. It would then be his duty to arrest or summon the person who he thought was responsible for the default. We can easily imagine that a good deal of disturbance and bad feeling would be caused by any proceeding of that kind. Then, after he had effected the arrest of the guilty person or summoned him, the question of the trial would arise, whether the trial should be held by the military or the civil authorities. If the trial were held by the civil authorities, we should have to arrange to get the accused outside the Fort and get him tried in the ordinary police courts. That again would give rise to possibilities of considerable friction, not only with the British soldiers but also with their superior officers. These, Sir, are serious considerations; and I put it to the Council that it is not worth our while to take all this trouble and risk for the sake of making a few rupees a year.

The motion was put and a division taken with the following result:

AYES.

Addy, Babu Amulya Dhone.
Ahmed, Khan Bahadur, Maulvi Emaduddin.
Ahmed, Khan Bahadur Maulvi Wasimuddin.
Azam, Khan Bahadur Khwaja Mohamed.
Charmakar, Babu Rasik Chandra.
Chaudhuri, Babu Kishori Mohan.
De, Babu Panchanan.
Dutt, Rai Bahadur Dr. Haridhan.
Hussain, Maulvi Muhammad Madassar.
Jonah, Babu Sarat Chandra.
Khan, Maulvi Hamid-ud-din.
Khan, Mr. Nazzar Rahman.
Pal, Rai Bahadur Radha Charan.
Roy, Babu Nalini Nath.
Roy Chaudhuri, Babu Saltaja Nath.
Sarkar, Babu Rishindra Nath.

NOES.

Afzal, Nawabzada K. M., Khan Bahadur.
Ali, Munshi Ayub.
Banerjea, the Hon'ble Sir Surendra Nath.
Barton, Mr. H.
Basu, Babu Jatindra Nath.
Bliss, Mr. E. E.
Bose, Mr. S. M.
Chaudhuri, Maulvi Shah Muhammad.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
Cohen, Mr. D. J.
Das, Babu Bhabanandan.
Das, Mr. S. R.
Deare, Lieutenant-Colonel S. H.
Duval, Mr. H. P.
Farequi, Mr. K. G. M.
French, Mr. F. C.
Forrester, Mr. J. Campbell.
Ghose, Mr. B. C.
Goode, Mr. S. W.
Hopkyns, Mr. W. S.
Huntingford, Mr. G. T.
Kerr, the Hon'ble Mr. J. M.
Khan, Maulvi Md. Rafique Uddin.
Long, Mr. J.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble the
Miller, the Hon'ble Mr. P. C.

Mukherji, Professor S. C.	Sarkar, Babu Jogesh Chandra.
Rae, Mr. W. R.	Spry, Mr. H. E.
Rahim, the Hon'ble Sir Abd-ur-	Stark, Mr. H. A.
Ray, Rai Bahadur Upendra Lal.	Stephenson, Mr. H. L.
Ray, Babu Jogendra Nath.	Suhrawardy, Dr. Hassan.
Roy, Mr. Bijoy Prosad Singh.	Swan, Mr. J. A. L.
Roy, Mr. Tarit Bhusan.	Walsh, Mr. C. P.
Roy, Rai Bahadur Lalit Mohan Singh.	Wheeler, the Hon'ble Sir Henry.
Salam, Khan Bahadur Abdus.	Wordsworth, Mr. W. C.

The Ayes being 16 and the Noes 44, the motion was lost.

The following amendment, standing in the name of Rai Radha Charan Pal Bahadur, was, by leave of the Council, withdrawn:—

That after clause 1(4) the following be added, namely,—

"(5) This Act shall remain in force for one year from the date of its commencement.

Babu KISHORI MOHAN CHAUDHURI: I move that after clause 1 (4), the following be added, namely,—

'(5) This Act shall remain in force for two years from the date of its commencement.'

I know full well the fate of my motion and so I do not like to take much of the time of the Council. I simply move it.

Babu AMULYA DHONE ADDY: I am sorry I must strongly oppose this amendment. In the case of the Stamp Bill and in the case of the Court-fees Bill, I expressed the opinion that these measures should be temporary, but so far as this Bill is concerned it should be a permanent one, especially as the object is to discourage betting and gambling in Bengal and another ground is that this is going to be a principal source of revenue to Government since it is expected to yield Rs. 30 lakhs a year.

With these remarks, I strongly oppose the amendment.

The Hon'ble Mr. J. H. KERR: I have already dealt with similar amendments connected with the two previous Bills and I do not think I need give any further reasons against the present motion.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that clause 1 stand part of the Bill.

The motion was put and agreed to.

Clause 2.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 2 stand part of the Bill.

Babu RISHINDRA NATH SARKAR: I move that in clause 2 (4), line 2, after the word 'sport,' the words and brackets '(racing not excluded)' be inserted.

The words "amusement," "game" and "sport" have not been defined and so to be on the safe side that we may realise these taxes from those people who go to the races, I have suggested that the words "racing not excluded" be added after the word "sport," because in the next clause the last two lines of the first paragraph run thus:—

. . . "at the rate of twenty-five per centum on all payments for admission to any entertainment." So by some interpretation or other, races may be excluded which we do not desire. The ordinary meaning of the word "sport" may also mean races, but still to be on the safe side, I have proposed the inclusion of these words.

The Hon'ble Mr. J. H. KERR: I am afraid we cannot accept this amendment. It would make our drafting ridiculous in the eyes of the sporting world. Racing is clearly a sport. It has been called the sport of kings. Chapter II is full of references to racing. Where will you find totalisators except at the races? Where will you find betting under the Bengal Public Gambling Act, except at the races? We expect a large amount of revenue from taxing these races, and there cannot be the slightest doubt that racing is included in the provision of the Bill. This amendment, as I have said, would be ridiculous drafting and I should be sorry to expose the Legislative Department to that charge.

The motion was then, by leave of the Council, withdrawn.

Rai Dr. HARIDHAN DUTT Bahadur: I move that in clause 2(*f*), line 3, after the word 'payment' the words 'but excluding theatrical and cinema entertainments and circuses' be inserted.

My amendment affects only a portion of the Bill, *viz.*, that relating to to entertainments and my intention is to take off the burden from the theatres, cinemas and circuses. I am not suggesting anything in connection with betting in race-courses from which the main portion of your revenue is to be derived.

I am one of those who believe in the necessity of provision for amusement in society. Living under high tension, as most of us do, occasional respite in the midst of unobjectionable amusement is necessary and cannot but be conducive to health and contentment. Theatres and cinemas are necessities in any well-organised society and in a city like Calcutta we must not do anything which may stand seriously against the prospects of these institutions.

When the Bill was first introduced in this Council, many of us supported the proposal to tax amusement. But we now find that while the tax on betting in race-courses is justifiable, the tax on theatres and cinemas is not so.

The theatres and cinemas of Bengal are already faced with serious difficulties due to depreciation of income owing to present trade depression and general slump as well as increased cost of living. The enormous increase in duty over films and the high wages now ruling have materially reduced the profits derived from theatres and cinemas and any extra

burden is likely to bring about the closing of many of the existing institutions.

It is true that the theatres and cinemas in Great Britain have been taxed. This was, however, a war measure when the theatres and cinemas were enjoying an unprecedented period of prosperity, but places of amusement in that country are no longer able to bear the burden of the tax and many are closing down altogether, and a strong movement in England is growing in favour of the repeal of the Act in so far as it affects the theatres and cinemas.

I have received cuttings from recent English papers which show how strong is the feeling at present against the tax.

Conditions of running theatres and cinemas in Bengal are even harder than in Great Britain for practically all personnel and materials must be secured at high cost and very heavy duty has already been imposed upon films and other accessories.

The effect of the tax cannot fail to produce a serious decrease in patronage, thereby considerably reducing even the small basis of taxation which exists at present.

The Select Committee have been furnished with very full statement of accounts by the proprietors of theatres and cinemas of Calcutta and the Committee "have been impressed with the evidence given as to the present depressed condition of the industry."

The Commissioner of the Presidency Division has said—"The Bengali life is exceptionally joyless and any setback in the lesson of the *Joie de vivie* which the European is attempting to teach Bengal is to be deprecated."

The Commissioner of Police, Calcutta, has said—"I am of opinion that the introduction of the Bill at the present time is inopportune . . . . further taxation would compel them ultimately to close down . . ."

There are other weighty opinions against this imposition against theatres and cinemas, but the quotations I have given ought to convince the Council about the undesirability of the tax at present. We fear the result will be that some at least of the existing theatres and cinemas will close down. This will stultify the yield of the tax to the Government, materially increase unemployment, and deprive the public of means of unobjectionable forms of amusement.

We find that since the middle of 1921, the revenue of the theatres and cinemas has gradually but surely declined and had it been economically possible to raise the gate-money to meet this increased expenses, the managers would have surely done so, and yet the Government propose to raise the admission prices for the purpose of taxation when the managers have refrained from doing so in spite of their necessity.

When the Bill was first introduced to the Council we were assured that the yield from theatres and cinemas would be about Rs. 15 lakhs

and upon this the first part of the Bill was accepted in principle. We now find upon deeper inquiry that the actual yield will be only about Rs. 4 lakhs and considering the burden and vexation which it will impose upon a struggling business, it is not justifiable.

The managers of theatres and cinemas were called before the Select Committee and, I am given to understand, adduced a great volume of evidence against the advisability of the tax so far as their business were concerned. Where is that evidence? Why is it not before the Council? The evidence of these businessmen, given in good faith, has been discounted and discredited and no information, not even a summary of the evidence, is before us. I am sure that had facts and figures then adduced been before the Council at the first reading of the Bill, the principle of taxing theatres and cinemas would have been abandoned in principle, and were they before the Council, the members would at once see the advisability of exempting theatres and cinemas from the operation of the Bill.

We all know that the Amusement Tax Bill has been thrown out in Bombay and I hear that has also been the case in Madras. I am not sure of this, but I have heard that this Bill has been thrown out in Madras also. Certainly it is not desirable that the theatres and cinemas should be taxed in Calcutta and left free in Bombay and other places.

The race bettings and other amusements are well able to meet the tax and we do not object to the second part of the Bill, but the Council will be well advised not to saddle the theatres and cinemas with the proposed tax and, in full conviction of the justice of the case of the theatres and cinemas, I move the adoption of my amendment.

Mr. J. CAMPBELL FORRESTER: I support this amendment. We are a young Legislative Council and many of us do not yet know the methods of procedure. Many, I am sure, would have voted against the proposed taxation, had they known that by sending this Bill to a Select Committee, they were admitting the principle of the Bill and, I fear, there was considerable misapprehension about the figures given by the Government. Then, you have in the report of the Select Committee many objections and some objections that were raised but not put down in the report. Reports of a private nature were given by the cinema and theatre principals. Why are their opinions ignored? For surely they are ignored when nothing is said in the Committee's report about them. Why the figures been placed at Re. 1-8-0 to Rs. 2-8-0, Rs. 2-8-0 to Rs. 3-8-0, Rs. 3-8-0 to Rs. 4-8-0? There are no such charges of entry at any theatres. Are they put down in this way to mislead the proprietors of cinemas and theatres into the belief that they are paying a less percentage than they really are? If the ordinary percentage was worked at the regular entrance fees of Re. 1, Rs. 2, Rs. 3, Rs. 4, Rs. 5 up to Rs. 10, it would work out at 20 per cent., on Rs. 5 and upwards, and the average is certainly above 18 per cent. Is this not juggling with figures? Is this

not throwing dust in the eyes of the members of this House? Then, let us look at the commercial point of view. Government gives figures of Rs. 30,00,000 as the gross turnover that is based upon the facts extracted from actual accounts of theatres and cinemas. I estimate this amount will be reduced by 1½, made up as follows:—Depressed industrial condition, 10 per cent., higher cost of living, consequent decreased spending capacity and exemptions of tickets up to eight annas, 10 per cent., decreased attendance by patrons, who will not pay the tax, 10 per cent. The cinemas and theatres that will be closed on account of losses as they are at present working on a very small margin of profit, thus leaving 3½ when it may be presumed will have to close on account of tax and thus creating unemployment by throwing out of employment actors and others occupied in these theatres and cinemas. I have it on the best authority that the Bandman Opera Company have been disbanded and leave on the 19th March, and will not be again formed until conditions improved, and in the case one firm alone whose theatres are at present working at a loss. If they close down, as a result of this tax, no less than about 600 families will be thrown out of employment. The Royal Opera Company went to Java, where theatrical conditions had been good until the introduction of the Amusement Tax. There they failed and were stranded. The Government had to come to their rescue. The Home Government had to send them Home and pay their expenses and they are now asking the Indian Government to refund their money. Do we want to kill theatrical enterprise as Java has done?

The Government has stated that the tax they propose on cinemas and theatres will be 12½ per cent. to 15 per cent. even giving the Government their maximum percentage of 15 per cent. You then arrive at a yield of Rs. 3,00,000. You again have to deduct cost of collection before the Government endeavours to pass this Bill. I would ask them what the cost of collection will be.

Theatres and cinemas give performances and services free and large sums are secured for charitable purposes, thereby assisting Government by finance. Should these contributions be refused, the Government would have to make up the deficiency in the sums now provided by theatres. For many of these charities, if you are going to hamper these cinemas and theatres, it is hardly to be expected that they will continue a generous attitude. Would it not be better if the Government would come to an amicable arrangement, namely, the theatres and cinemas united be asked to guarantee the amount to charities of not less than Rs. 1,50,000 per year to be recovered by performances given for that purpose? Surely an amicable arrangement of this sort could be come to by the Government and thus not disturb the present arrangement of the cinemas and theatres. This measure would obviously be more popular with the public. Sir, may I sound a note of warning to the Government? Have they considered what possible effect this may have on the non-co-operating element?

Let us see how this works out in his favour. He can run his cinemas and theatres without either paying his tax or collecting it from the public. He can even advertise this is done, as a form of civil disobedience, and the only remedy the Government has is to bring this man before the Magistrate for each and every offence according to the Bill. What would be the result—a maximum fine of Rs. 500, and as far as I can see, it would mean that the manager would have to be prosecuted for every person admitted; if this is so, I fear more courts would be required to carry on the prosecutions. The non-co-operator will thus get an opportunity to make the Government ridiculous even if things do not reach this pass. It is feasible to think that the non-co-operators will piquet theatres and cinemas and prevent this tax being paid. Intimidation would prevent people visiting the tax-paying theatres and thus further reduce the possible yield on this tax, besides joining a new class of disturbance of public peace.

Mufassal members may say—"Here is an opportunity of taxing Calcutta for the benefit of the mufassal." If they take that narrow and selfish view, they are not true to their constitutencies, but I cannot believe they would take up this illogical attitude. If they should be foolish enough to act in this way then, rest assured, it will act like a boomerang in the near future, when some measure is brought before the House to benefit the mufassal.

The cry that has now become parrot-like is that Government must have money. Of course it must, but there are other methods. What about the Permanent Settlement Regulation? Can nothing be done about it? What about retrenchment? I do not mean to attack the Ministers' salaries because the Government should show an example to industries by giving the best wages. But what about retrenchments in various other departments? There was a question of stationery the other day when some of my friends opposed the extra grant asked for. Reasons were given why it should be passed. I here give a reason why it should have been opposed. Here is an envelope. (The member here exhibits an envelope.) Look at the size. It is a good and expensive thing. Now Sir, I ask, is that extravagance or not?

I appeal to the members of this House to support this motion.

Sir, I am not going to detain this House longer, but I would earnestly ask them to consider that if they accept my amendment they will be doing a great benefit to the people who cannot assist themselves and I do hope that one and all will find themselves in the right lobby to assist those who cannot help themselves.

Mr. H. A. STARK: I should be sorry to see the first half of this Bill accepted and introduced. In other countries, the amusement tax was introduced as a war measure when every other form of taxation has been exhausted. The war is now over, but I find ourselves hard up for money and we propose to tax amusements. Now the amusements chiefly are

cinemas, the theatres and sports generally, but it is only in Calcutta, Dacca and Darjeeling where the people will be deprived of the pleasures that they have by attending these theatres, cinemas and such like, and it is only in these places that they should be taxed. We know that there are travelling companies that go about the country and I have seen them almost in all parts of Bengal during my official tours. They start out from Calcutta and they give their exhibitions in the mufassal, but there will be no taxation for them. But for the same amusements in Calcutta we will be taxed. I have got the accounts of three of the cinema companies in the city. The books have been shown to me and I am able to bear testimony to the fact that the amount realised in these places of amusements is not as large as people generally suppose it to be. I believe that if anything were to happen by which entertainments at these places of pleasure should fall off then, it is more likely than not, that these places in the end will be compelled to shut down, and if they do shut down what would be the position? Government is under the impression that there are golden eggs, but if the goose is slaughtered it will not be able to lay any eggs, in other words the taxes, if accepted, will not be realised and, in any case, Calcutta would be deprived of those places of amusements which make life somewhat bearable. I do not wish to take more time than I can avoid. It is to be hoped that here the Bengal Amusement Taxation Bill will be passed. Life in India is drab enough. With the very few pleasures they are going to be taxed all and be it remembered that social life, as it is understood by Europeans, is scarcely understood by the average Indian and the direct effect of this Bill would be to deprive him of his already limited opportunities for recreation. It is most important that we should provide rational occupation and also relaxation for the hours of leisure. One of the greatest problems in Bengal is this: that in the hours, outside working hours, there is very little for the people to do, and a well-known writer had traced much of the unrest to the want of social life and recreation in the Indian adult and adolescent, and there can be no reasonable doubt that the more controlled valves there are for the escape of pent-up energies, mental and physical, for people during periods of enforced leisure, when time hung heavily, the better it is for wholesome living. The rich have abundant means with which to command their pleasure and find their recreation; they find them maintaining their social and athletic clubs, which not only amused but also physicked them. The bow, kept unstrung, lost its spring and strength, and but for the relaxation of the tension of official and commercial life in the club and playing-field they will have more breakdowns than is now the case. It is hardly an open question as to which is the better—a doctor's bill or a club's subscription, a dose of physique or a game of tennis, and then raises a question as to whether a man should be taxed for his game of football or tennis and not taxed for his phial of medicine. I maintain that games and recreations—not only the theatres and cinemas but also others—are essential to efficient work

and that games should not be made taxable luxuries or indulgences. Sir, my community has not the means to organise and run clubs. They find their sole recreation in the railway institutes and cheap seats in the theatre. They are in receipt of wages which is on an average scale lower than the Britishers occupying similar position and yet we have to maintain a European standard on an Indian scale of wages. Their only form of amusement is the theatre or picture house. The condition of the *bhadralog* section of the Indian community is probably even worse than the same class of Anglo-Indian, and the amusement tax will fall very heavily on them. For these and other reasons set forth in the communication by the domiciled Anglo-Indian Association on the subject of this Bill, I beg to submit that my community is opposed to a Bill as it stands. There is no objection on their part to taxing horse-racing, but we ask that this Council will seriously consider whether it is worth while taxing the cinemas, the theatres and sports generally, more particularly inasmuch as we run the dangerous risk of the cinemas and theatres shutting down and then neither the Government will derive the expected income nor the people will have the amusements which they now have.

Rai RADHA CHARAN PAL Bahadur: I am glad that the opposition that was offered in the Select Committee is voiced in this Council. Sir, the statements which were placed before us in the Select Committee have not been printed and circulated to members of the House. But, Sir, there cannot be any doubt that so far as the cinemas and the Indian theatres are concerned—I am not proposing any distinction between European and Indian theatres—it appears that it is a very struggling and precarious industry; and some of these statements show that they are working at a loss; and therefore I think, Sir, having regard to the fact that very small revenues will be derived therefrom, the Hon'ble Member will consider whether it would be worthwhile to force this taxation upon a class of people, who are verily struggling for their existence. My knowledge is confined to the Indian part of the town, where the Indian theatres exist. As a matter of fact there has been considerable rise in their establishment charges and in their maintenance charges; and they have not been able to raise the rates because of the fear that they will lose their constitutents. Further, I may also point out that in this matter, very careful inquiries were made by the Commissioner of Police, and I do not think that the Commissioner of Police was one of those who are very anxious to see that the Government is deprived of a legitimate source of revenue. After all Government is not uncharitable to the police, and therefore I do not think that the Commissioner of Police has been in any way partial for depriving the Government of any possible source of revenue. Then, Sir, the European and the Anglo-Indian Associations have also made a very spirited protest against it. Although there had not been a well-reasoned document submitted by the Indian theatrical companies at the outset,

I can assure the House that in the Select Committee they came forward saying that they are living from hand to mouth. These men do not belong to the non-co-operators class and they eke out a very precarious existence. They are not disloyal or anything of that sort. Sir, Indian theatres have been in existence during the last 50 years. So far as I know of the few Indian theatres, in fact some of them have been ruined. Rich men of Calcutta, having invested large amounts in theatrical companies, have been practically ruined. The Neogys of Baghbazar have been practically ruined and have lost everything. I think, therefore, that having regard to the present financial condition of these theatres and cinemas, the Hon'ble Member might consider whether it is worthwhile to force the taxation down their throat in order to draw a paltry sum of Rs. 3 or 4 lakhs. Sir, I am not quarrelling with you, but I am making an earnest appeal to the House on behalf of these poor people. Looking to the attendance of the House, it is sure you will carry everything, which you wish to carry; but I ask you to consider whether it is not possible for you to exclude this struggling industry from the operation of the Bill.

The Hon'ble Mr. J. H. KERR: I have listened with some interest to the remarks made by the representatives of the European and the Anglo-Indian community in this Council. I did not hear them raising any objection to the Court-fees Bill or the Stamp Bill, but when it comes to the question of the Amusement Bill they are not backward in standing up and telling us what they think. The matter has been clearly put by Mr. Stark. He says he has no objection to taxing horse races because his community do not go to horse races.

Mr. H. A. STARK: There is a very large number of people from my community who do go to the races.

Mr. J. CAMPBELL FORRESTER: I beg to—

The DEPUTY-PRESIDENT: Please do not interupt the Hon'ble Member.

The Hon'ble Mr. J. H. KERR: The line taken by these members is clear. "Tax everybody and tax anything, but for goodness sake don't tax me." That line of argument has appeared in a much more naked form to-day than in connection with the previous Bills, but I do not think I need take any further notice of it. Mr. Campbell Forrester has challenged our figures. I hold the figures here—the figures which were placed in our hands in the Select Committee by 14 of the theatrical and cinema houses in Calcutta. The gentlemen who gave us these figures did not want them to be published, so we did not publish them in detail. They have put up their own protest and it was open to them to give such figures as they thought best in that protest. But these figures show that in the year 1921—admittedly one of the worst years for enterprises of this

kind—the takings in these fourteen theatres and cinemas were Rs. 27,15,000.

That covers the takings of 14 theatrical and cinema houses in Calcutta. There are, I understand, 17 altogether, but we have not got the figures of the other three. But taking these figures, I claim that our estimate is justified and that the total collections on account of amusements in Calcutta must amount to at least Rs. 30 lakhs, even in a bad year. We urge therefore that this is a source of revenue which we are entitled to tap in our present situation. We are going to tax litigation and commercial dealings and we think that amusements are a source of revenue which we are entitled to draw upon in order to make up the deficit.

Mr. Campbell Forrester questions the figures in clause 3 of the Bill and says that these figures are only meant to throw dust in the eyes of the Council. We are not dealing with the figures in this amendment, and I am not sure whether Mr. Campbell Forrester was in order or whether I am in order in referring to the matter. But as the point has been raised, I will reply to it. The scale goes between Re. 1-8-0 and Rs. 2-8-0, between Rs. 2-8-0 and Rs. 3-8-0, between Rs. 3-8-0 and Rs. 4-8-0, between Rs. 4-8-0 and Rs. 6-8-0 and so on, and the object of our adopting these intermediate rates is not to throw dust in the eyes of the Council but to guard against a pretty obvious subterfuge which might be practised if we had put the rates in even rupees. For instance if we had said that the tax payable on Rs. 2 should be four annas then it would be perfectly open to any proprietor of a theatre or cinema to reduce his charge from Rs. 2 to Re. 1-14-0. He would lose two annas over the transaction and so would Government, but the public would only pay two annas instead of four annas to Government. To guard against this obvious difficulty we put in these intermediate rates, but there is nothing else behind that in our action, and I submit that this action is perfectly legitimate on our part. What we want to charge is two annas for Re. 1-0-0 and four annas for Rs. 2-0-0 and so on.

Leaving aside these details, the point I wish to make is that we are fairly entitled to tax these amusements. It seems to be thought that there is no objection to taxing races, but we must not tax the cinemas. Well, Sir, I ask why we should select one form of entertainment and tax that heavily and let all other forms of entertainments go scot free. I myself go to the races very seldom. I go more often to theatres and cinemas, but I do not see why only the race-going people should pay the contribution which may fairly be asked from those who go to theatres and cinemas. We have gone some way to meet the admitted difficulties of the cinema and the theatre people. We have cut the tax down by half, as Dr. Haridhan Dutt has pointed out, and we have lost a considerable sum in that way. We have accommodated them by giving the further concession of postponing the operation of the Bill until October next when

their business will be better than in the hot weather, and I do not feel that we should be justified in making any further concession. I therefore oppose this motion.

The motion being put, a division was taken with the following result:—

AYES.

Basu, Babu Jatindra Nath.
Chaudhuri, Babu Kisheri Mohan.
Dutt, Rai Bahadur Dr. Haridhan.
Forrester, Mr. J. Campbell.
Moitra, Dr. Jatindra Nath.
Mukherjee, Babu Nitya Dhone.
Pal, Rai Bahadur Radha Charan.
Ray, Babu Nalini Nath.
Roy Chaudhuri, Babu Sailaja Nath.
Stark, Mr. H. A.

NOES.

Addy, Babu Amulya Dhone.
Atzal, Nawabzada K. M., Khan Bahadur.
Ahmed, Khan Bahadur, Maulvi Emaduddin.
Ali, Munshi Amir.
Ali, Munshi Ayub.
Azam, Khan Bahadur Khwaja Mohamed
Banerjea, the Hon'ble Sir Surendra Nath.
Barton, Mr. N.
Biss, Mr. E. E.
Bompas, Mr. C. H.
Bose, Mr. S. M.
Charmakar, Babu Rasik Chandra.
Chaudhuri, Maulvi Shah Muhammad.
Chaudhuri, the Hon'ble Nawab Saiyid Nawab Ali, Khan Bahadur.
Das, Babu Shishmadev.
Das, Mr. S. R.
Das Gupta, Rai Bahadur Nibaran Chandra.
De, Babu Panindralal.
Deare, Lieutenant-Colonel S. H.
Duval, Mr. H. P.
Faroqui, Mr. K. C. M.
French, Mr. F. C.
Ghose, Mr. D. C.
Goode, Mr. S. W.
Gupta, Mr. J. N.
Hopkyns, Mr. W. S.
Huntingford, Mr. G. T.
Huq, Maulvi Ekramul.
Hussain, Maulvi Muhammad Madassur.
Kerr, the Hon'ble Mr. J. H.
Khan, Maulvi Md. Rafique Uddin.
Khan, Mr. Razaur Rahman.
Khan Chaudhuri, Khan Bahadur Maulvi Muhammad Ershad Ali.
Lang, Mr. J.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble.
Mitter, the Hon'ble Mr. P. C.
Mullick, Babu Nirode Behary.
Nasker, Mirza Muhammad Ali.
Parrett, Mr. P.
Rahim, the Hon'ble Sir Abd-ur-
Ray, Rai Bahadur Upendra Lal.
Roy, Mr. Tarit Bhusan.
Salam, Khan Bahadur Abdus.
Sarkar, Babu Jogesh Chandra.
Spry, Mr. H. E.
Stephenson, Mr. H. L.
Suhrawardy, Dr. A.
Suhrawardy, Dr. Hassan.
Swan, Mr. J. A. L.
Walsh, Mr. C. P.
Wheeler, the Hon'ble Sir Henry.
Wordsworth, Mr. W. C.

The Ayes being 10 and the Noes 52, the motion was lost.

The following amendment, standing in the name of Mr. H. A. Stark, was, in the absence of the member, deemed to be withdrawn:—

That at the end of clause 2(9), the following be added, namely,—

'but does not include any club, society, or association appertaining to an educational institution and intended for pupils and their teachers.'

The DEPUTY-PRESIDENT: The question is that clause 2 stand part of the Bill.

The motion was put and agreed to.

Clause 3.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 3 stand part of the Bill.

Rai RADHA CHARAN PAL Bahadur: I formally move that in clause 3(*1*), line 2, for the word and figures ' April, 1922 ' the word and figures ' October, 1922 ' be substituted.

I understand from the observations that have been made by the Hon'ble Member that he has very generously accepted this amendment; if that is so, so far as theatres and cinemas are concerned, I believe this will apply to other places of amusement also. But as my amendment has been accepted, I do not wish to make any speech on it.

The Hon'ble Mr. J. H. KERR: Perhaps I may mention at this stage the proposal to add a new sub-clause to this clause. I move that at the end of clause 3 the following be added, namely,—

' (*5*) The entertainments tax, in the case of theatres, cinematograph exhibitions and circuses and any other class of entertainment which the Local Government may direct, shall be charged, levied and paid with effect from the first day of October 1922.'

That I think covers Rai Radha Charan Pal Bahadur's amendment.

The amendment of Rai Radha Charan Pal Bahadur was then, by leave of the Council, withdrawn.

The following amendment, standing in the name of Rai Dr. Haridhan Dutt Bahadur, was then, by leave of the Council, withdrawn:—

That in clause 3(*1*), line 5, for the words ' twenty-five ' the word ' twenty ' be substituted.

Rai Dr. HARIDHAN DUTT Bahadur: I move that in clause 3(*2*), line 2, for the word ' less ' the words ' not more ' be substituted.

I find that the Select Committee have made a new addition to clause 3 in which they have laid down that the entertainments tax shall not be leviable where the payment for admission is less than eight annas. When I first read it I thought it was a printing mistake, but I find that they have adopted this ambiguous language in fixing the different scales. So I cannot say it is a printing mistake, as I thought at the beginning: but on a reference to the report of the Select Committee, I am surprised to find that at least two of our friends on the Select Committee also have made the same mistake. From the note of dissent of my friend Rai Radha Charan Pal Bahadur it appears that he also understood the Select Committee to have exempted eight-anna tickets from the operation of the Bill. My friend Rai Mahendra Chandra Mitra Bahadur has also fallen into the same error of supposing that the Select Committee had exempted payment of the tax on eight-anna tickets as will appear from his note of dissent. However, as I understand that this amendment is going to be accepted, I need not make a long speech about it.

The Hon'ble Mr. J. H. KERR: After consideration we are prepared to accept this amendment. There is in the Bill a provision that the tax shall not be levied on admission fees of less than eight annas. That charge is common in Indian theatres and cinemas, and we are prepared as a concession to extend the exemption up to eight annas so that no tax will be leviable on an admission fee of eight annas or less. A consequential amendment will be necessary in sub-class (3) (*i*). I shall move that consequential amendment in due course. I am prepared to accept amendment Nos. 13-15.

The motion was then put and agreed to.

Rai RADHA CHARAN PAL BAHADUR: I move that in clause 3(2) for the words 'less than eight annas' the words 'not more than one rupee' be substituted.

What I mean is this. I was under the impression—I do not know if rightly or wrongly—and the impression which I carried in the Select Committee has been confirmed by the concession granted by the Hon'ble Mr. Kerr, that taxation was exempted up to eight-anna tickets. I did not agree to that. I wanted the exemption to be up to one-rupee tickets, and I may say that the acceptance of the previous amendment in this House has rather prejudiced my case to a certain extent. I was under the impression that eight-anna tickets were exempted, but although it does not appear in the reprinted Bill here, I was under the impression that the Hon'ble Member had been pleased to allow that correction—call it correction or concession whatever you will—to be made.

I might be called "grabby" for, having obtained concession in the matter of eight-anna tickets, I again come up to Government with an amendment that one-rupee tickets should also be exempted. But so far as Indian theatres are concerned, it has been clearly stated that they will be hard hit if you do not exclude one-rupee tickets as well as eight-anna ones from the operation of this tax. One-rupee ticket-holders are, as far as I find, liable to pay two annas extra as tax; and I think it will appreciably reduce the number of admissions to that class. I think that the Hon'ble Member will kindly consider the position and the earnest representations of the proprietors of cinemas and theatres; and now that he has succeeded in getting the cinemas, etc., in the net of this Bill, I hope he will kindly consider whether the same extension may not be made in the case of one-rupee tickets as has been made in the case of eight-anna tickets. It will not materially affect the estimated income, and if it does he ought not to grudge it. I therefore move that one-rupee tickets should be excluded from liability to taxation.

The Hon'ble Mr. J. H. KERR: Having got the theatres into our net Rai Radha Charan Pal Bahadur comes up with this amendment to make a hole in the net and get them out of it. I am afraid we cannot accept this amendment. The loss on the eight-anna tickets, which we have

already exempted will be only one anna on each ticket, and that will not be so serious, but if we raise the limit of exemption to one-rupee tickets it would materially affect the financial effect of the Bill. For that reason I am afraid I cannot accept the amendment.

The amendment of Rai Radha Charan Pal Bahadur was then put and lost.

The following amendment, standing in the name of Rai Dr. Haridhan Dutt Bahadur, was, by leave of the Council, withdrawn:—

That in clause 3(3), lines 2 and 3, the words 'any theatre, cinematograph exhibition or circus or' be omitted.

Mr. J. CAMPBELL FORRESTER: I move that in clause 3(3) at the end of the first paragraph, after the word 'namely' the following be added, namely,—

'one anna in the rupee or a broken portion thereof, upon all payments for admission, excepting the classes of tickets exempted under section 3, sub-section (2)'; and

(2) that the second paragraph of clause 3 (3) be omitted.

In moving this amendment I have a picture before me of Government supporters of the last amendment who came not singly but in batallions. Although that picture has brought before me the fate that awaits this amendment, it does not for one moment cause me to think of retreat. Highlanders do not retreat.

Now to my motion. In support of this amendment let us take some figures and analyse them and see how they will work out. Supposing a theatre turns over Rs. 6,00,000 and we know for a fact that it is usual to pay an average of 70 per cent. of the gross receipts to the visiting theatrical company, thus leaving 30 per cent. out of which the theatre has to provide the theatre staff, advertisement, and lights, etc. I am informed that the expenses of running a good theatre such as the Empire Theatre in Calcutta is Rs. 1,50,000 a year. Upon these figures the theatre can make a profit of Rs. 30,000 per year. When one considers the capital and precarious profession that this is, it cannot be considered excessive. Now the theatres are faced by two alternatives of paying the tax themselves or passing it on to the public by increased prices.

Let us take the latter alternative first, that is, passing it on to the public; all experience in these matters goes to show that increased prices mean decreased patronage, as witness the failure of the Grand Opera Company, who raised their prices which resulted in their playing to empty houses and one night they had to close completely on account of small attendance. Theatre managers are essentially business men. Do you think that if an extra profit could have been possibly *wormed* out of the public to meet their increased expenses they would not have increased the prices? Most decidedly, but it is because they know there was a risk of matters becoming worse by increasing their prices they did not

do so. The most prominent theatre in Calcutta raised its prices, and the result was decreased patronage and members are aware that this is a fact from the evidence given in the Select Committee and this evidence has not been placed before the Council. Supposing, for instance, this decreased patronage is not more than 15 per cent. and taking the Rs. 6,00,000 as a basis, the theatres would share on Rs. 5,10,000 having paid the 70 per cent. gross receipts to the visiting theatrical companies thus leaving Rs. 1,53,000—the irreducible expenses being Rs. 1,50,000—would give a profit for one year working of Rs. 3,000 or 2 per cent. on the capital of Messrs. Bandman Varieties Limited, the lessees of the Empire Theatre. Meanwhile, the Government who run no risk of loss would be taking at least an average tax of 15 per cent. on their own figures on Rs. 5,10,000 equal to Rs. 76,500, that is, 50 per cent of the capital, and this enterprising owner would get 2 per cent. and all the risk. This is in the event of passing the tax on to the public.

Supposing the patronage is not decreased on account of small tax, which is reasonable to suppose, the yield would be Rs. 37,500 at one anna in the rupee from this one theatre, or only about half of what the amount would be if the proposed tariff were charged. Surely it is worth the while of Government to remit Rs. 1,50,000 if thereby this struggling industry may be saved from extinction.

But I fear it is useless to expect anything to-day from the Hon'ble Finance Member who is, I think, in one of his worst moods, and it does not matter how sound and good your arguments are against this tax, he has made up his mind to get it. But the exemption of theatres, cinemas, etc., from this tax is a matter which is worthy of his attention, and I would plead with him not to throttle the poor people's amusements.

Mr. M. E. SPRY: Government are unable to accept this amendment. When Mr. Campbell Forrester spoke a short time ago on a previous amendment I understood him to say that he thought the utmost Government could take in equity from the cinemas and theatres of Calcutta was a sum, apparently to be arrived at by compromise, but which Mr. Campbell Forrester suggested might be one lakh of rupees, in the form of an annual subscription by the cinema and theatre proprietors to be devoted to charitable purposes. Mr. Campbell Forrester now proposes a tax equal to 6¼ per cent. on the price of admission tickets, and if he proceeds in this reckless way we shall have the mover warning the Council before the end of the afternoon that the rate of tax proposed by Government is not high enough. It is proposed to impose a tax of roughly 12½ per cent, that is 2 annas in the rupee, on the gross admission fees. I need not remind the House that in the other two taxation Bills we have been discussing recently the increase in the duty and fees amounts to approximately 50 per cent. We all recognise the fact that the proprietors of cinemas and theatres are having a bad time; they came before the Select Committee quite honestly and gave their figures, and the view of Government

on a careful consideration of those figures is that 12½ per cent. on the gross takings is not an unreasonable tax to impose. I submit that in view of the considerable increase that Government have felt bound to make in regard to the Stamps and Court-fees Bills, this tax of 12½ per cent. is not in the circumstances an unreasonable one. I oppose this amendment on behalf of Government.

The motion was put and lost.

Maulvi HAMID-UD-DIN KHAN: After what has fallen from the Hon'ble Mr. Kerr it is hardly worth while moving my amendment as I know that no amount of advocacy for the poor will be of any avail. I therefore beg to withdraw it.

The following amendment was then, by leave of the Council, withdrawn:—

'That clause 3 (3) (*i*) be omitted.'

Mr. H. A. STARK: The point has already been conceded by the Hon'ble Member and I beg to withdraw my amendment.

The following amendment was then, by leave of the Council, withdrawn:—

That in clause 3 (3) (*i*), lines 1 and 2, for the words 'is eight annas or more' the words 'is above eight annas' be substituted.

The Hon'ble Mr. J. H. KERR: I move that in clause 3(3) (*i*), lines 1 and 2, for the words 'is eight annas or more' the words 'is more than eight annas' be substituted.

The motion was put and agreed to.

Rai RADHA CHARAN PAL Bahadur: I am practically in the same position and I do not think that it is necessary for me to press my amendment when my previous amendment for raising the limit of exemption to Re. 1-0-0 has not been accepted by the Council. I beg leave to withdraw it.

The following amendment was then, by leave of the Council, withdrawn:—

That in clause 3 (3) (*i*) for the words 'less than twelve annas' the words 'less than one rupee' be substituted.

Rai RADHA CHARAN PAL Bahadur: I do not think it is necessary for me to press my amendment. The non-co-operators will settle this matter outside. I beg to withdraw it.

The following amendment was then, by leave of the Council, withdrawn:—

That for clause 3 (3) (*i*) and (*ii*), the following be substituted, namely,—

'is more than one rupee but less than one rupee eight annas ... Two annas.'

Rai RADHA CHARAN PAL Bahadur: The same thing. Nothing can be done in this House. I beg to withdraw it.

The following amendment was then, by leave of the Council, withdrawn:—

That for clause 3 (3) (*i*) and (*ii*), the following be substituted, namely,—

' is one rupee or more but less than one rupee eight annas ... Two annas.'

Maulvi HAMIDUD-DIN KHAN: I follow suit.

The following amendment was then, by leave of the Council, withdrawn:—

That for clause 3(3) (*ii*), the following be substituted, namely,—

' is more than one rupee but less than one rupee eight annas. ... Two annas.'

Babu SAILAJA NATH ROY CHAUDHURI: I beg to withdraw.

The following amendment was then, hl leave of the Council, withdrawn:—

That in clause 3(3) (*i*), lines 1 and 2, for the words ' twelve annas or more ' the words ' more than a rupee ' be substituted.

Babu RISHINDRA NATH SARKAR: I move that at the end of clause 3, the following be added, namely,—

' Provided however that half the above rates shall be levied for admission to theatres and cinema houses.'

My reason for moving this amendment is that as the Hon'ble Member has said that the rates on clause 17 will be increased, so if this is decreased there will be no loss of revenue.

Colonel A. J. PUGH: I wish to say a few words, not because I think that the amendment will be accepted but because I wish once more to enter a protest against the Government of Bengal allowing the Government of India to take the proceeds of the articles brought out for these entertainments. The taxes on amusements and luxuries have been given to the Government of Bengal, and I think it is only right that this Government should enter a protest against the Government of India in imposing a tax of 20 per cent. on the importation of films and increasing that tax to 30 per cent. That, practically, is taking away money from Bengal under the disguise of customs duty, and we ought to enter a protest and I hope that will be done. Lastly, I would say that I very much doubt if we are going to get this Rs. 3 lakhs anticipated.

Rai RADHA CHARAN PAL Bahadur: I beg to support the amendment of Babu Rishindra Nath Sarkar, which will, I think, mitigate to a great extent, the hardships inflicted on cinemas and theatres

especially having regard to the fact of the recent increase in customs duties by the Imperial Government. I think the Hon'ble Member should have the courage to fight with the Finance Member of the Government of India on the subject and try to get back the 10 per cent. duty levied on cinema films, and if he is able to do so, he is quite welcome to the revenues; but at the present time having regard to the double slaughter that is going on here as well as at Delhi, he will, I hope, kindly consent to accept this amendment proposed by Babu Rishindra Nath Sarkar.

I beg to bring home to the Hon'ble Member in all seriousness that the people all over the country are hard hit by the heavy burden that we are imposing on them not only from this legislature but also from a higher legislature.

Mr. H. E. SPRY: May I use the terminology of my friend Rai Radha Charan Pal Bahadur, and say that this Council is being burdened with a large number of inaccurate statements. I do not know how far Colonel Pugh has studied the subject, but if he had looked at the Government of India budget, and the schedule of proposed new customs duties which was distributed recently, he would have found that far from there being an increase of duty on cinema films they have been deliberately removed from the 20 per cent. category and the customs duty now prescribed for them is only 15 per cent. *ad valorem*. Colonel Pugh comes to this House and says that the customs duty has been increased from 20 per cent. to 30 per cent. and that this is a matter in which the Hon'ble the Finance Member should protest against the action of the Government of India. This is quite sufficient for Rai Radha Charan Pal Bahadur, who at once finds his element, and irrespective of the accuracy or relevancy of the argument seriously suggests that here is a reason for giving up the very moderate tax proposed on cinema entertainments. I am surprised at these members trying to foist on the House the inaccurate statement that the customs duty on cinema films has been raised when the published revised rates of customs duty show that it has been reduced. The only logical application of the facts is that as the customs duty on these films is to be reduced, the proposed tax on cinemas should be increased.

As to the amendment I am not quite sure that I understood Babu Rishindra Nath Sarkar in his opening remarks. As far as I can gather, what is meant by the amendment is that half the rates provided in clause 3, *viz.*, 1 anna, 2 annas, 4 annas, 8 annas 12 annas and so on should apply to theatres and cinemas. I have already explained to the House that the tax proposed in the Bill works out roughly at 12½ per cent. on the gross admission fees. Mr. Campbell Forrester moved an amendment a short time ago suggesting that the rate of tax should be 6¼ per cent. or 1 anna in the rupee. In dealing with that amendment I explained why his suggestions could not be accepted, and the reasons I gave then hold good in the case of the amendment now before the House. I understood the

Council to declare by its vote on Mr. Campbell Forrester's amendment that it is not in favour of a tax of 6¼ per cent., and I suggest therefore that the present amendment is out of order. In any case I have to oppose it on behalf of Government.

The motion was then put and lost.

The following amendment, standing in the name of Babu Annada Charan Dátta, was then, by leave of the Council, withdrawn:—

That in clause 3(*4*), lines 3 and 4, the words, figures and brackets 'under sub-section (*1*)' be omitted.

Babu ANANDA CHARAN DUTTA: I move that after clause 3(*4*), the following be added, namely,—

'Provided that in case of an undue burden being thrown upon the industry involved in promoting any Bengali theatre or any indigenous Indian amusement, the Local Government may exempt any such entertainment from payment of the tax under this law altogether or for any particular period or periods.'

In pressing this amendment, I would first draw your attention to section 2, clause 7, where the Government has taken power to exempt any entertainment or class of entertainment from liability to pay the entertainment tax. This clause has reference only to total exemption under peculiar circumstances. The proviso which I want to add is that Government should take power to make partial and periodical exemptions. When the general principle of exempting certain classes of entertainments under particular circumstances has been recognised by section 2 of clause 7, there is no reason why there should not be an express provision that under appropriate circumstances Government should have the power to make partial and periodical exemption as well with regard to the Bengali theatres and other indigenous Indian amusements. It is an admitted fact that in Bengal the theatre is only of very recent growth—about 50 years—and some of them have been passing through very difficult times. At the same time it cannot be gainsaid that there is a considerable amount of vitality in the theatres, otherwise they would not have been able to continue for half a century. Having regard to these facts and also having an eye to the development of histrionic art in Bengal, it is essential that we should give the Bengali theatres every facility of surviving taxation in particular cases and not do anything which will curb them. It is not a general case, but what I say is that in particular cases where a case can be made out, Government should be empowered to give partial and periodical exemption from taxes and seeing that Government have taken power to grant total exemption in certain cases, I do not see why this amendment should not be accepted.

The Hon'ble Mr. J. H. KERR: We have, as has been pointed out, by the Hon'ble mover, taken power under clause 7 of the Bill to give exemptions in any circumstances where we consider it necessary, but this clause would confer special privilege of exemption or possibility of exemption on what the amendment calls Bengali theatres or indigenous Indian amusements. In the Select Committee we were told that as a matter of fact Bengali theatres were doing very much better than the European concerns. In fact one Indian proprietor told us plainly that although last year was a bad year, he made a profit of 15 to 20 per cent. He objected to the tax, but he told the Committee that that was his profit. If I stood up in this Council and moved an amendment according special protection to the European theatrical industry, namely, that the Local Government should be given discretion to exempt any European theatre or cinema from the payment of the tax, I do not think my proposal would be favourably regarded by the Council; but as a matter of fact, it would be exactly on the same lines as this proposal and there would be more justification for it. I submit that it is wrong in a measure of this kind to select any particular form of industry and to seek to give it special privileges. We have power under section 7(2) to exempt any entertainment or class of entertainments. I therefore oppose this amendment.

Rai RADHA CHARAN PAL Bahadur: May I suggest that both Indian and European entertainments may be exempted?

Babu ANNADA CHARAN DUTTA: In view of the suggestion of the Hon'ble Finance Member, I am willing to accept that instead of 'any Bengali theatre or any Indian indigenous amusement' let it be simply 'entertainment' so as to include all kinds of entertainment.

Mr. KRISHNA CHANDRA RAY CHAUDHURI: I understand this power already exists in the Act.

The Hon'ble Mr. J. H. KERR: The powers are already in the Bill in clause 7(2); I do not think it is necessary to add to them.

Rai RADHA CHARAN PAL Bahadur: Does that clause (7) enable the local Government to vary or reduce the tax? This is an exemption only so far as I understand it.

The Hon'ble Mr. J. H. KERR: No, the intention is not to give power to reduce rates either in clause 7, or, so far as I can gather, in this particular amendment. The amendment provides "that in case of an undue burden being thrown upon the industry involved in promoting any Bengali theatre or any indigenous amusement, the Local Government may exempt any such entertainment from payment of the tax under this law altogether or for any particular period or periods." It does not give the Local Government power to vary the rate of tax and I think it would be a mistake in a fiscal measure of this kind to give the Local Government such powers. I therefore oppose the Rai Bahadur's proposal.

Mr. KRISHNA CHANDRA RAY CHAUDHURI: Will the Hon'ble Member give us an assurance that if the Government, on an application of the proprietor or manager of a theatre, is satisfied that the theatre in question is run at a loss, then clause 7(*2*) should be applied as generously as possible?

The Hon'ble Mr. J. H. KERR: Obviously, Sir, I cannot give any such undertaking. I or my successor will have to carry out the law as it stands.

The motion was then put and lost.

The Hon'ble Mr. J. H. KERR: I move that at the end of clause 3(*4*), the following be added, namely,—

'(*5*) The entertainments tax, in the case of theatres, cinematograph exhibitions and circuses and any other class of entertainment which the Local Government may direct, shall be charged, levied and paid with effect from the first day of October, 1922.,

The motion was put and agreed to.

The DEPUTY-PRESIDENT: The question is that clause 3, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 4.

The DEPUTY-PRESIDENT: The question is that clause 4 stand part of the Bill.

The motion was put and agreed to.

Clause 5.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 5 stand part of the Bill.

Babu ANNADA CHARAN DUTTA: I move that in clause 5, line 3, after the words 'are not' the words 'intentionally' be inserted.

I press upon the Council the amendment that stands in my name. My amendment raises a question of principle. By clause 5 you create a new offence for which the proprietor, including the manager also by the definition, is liable to be tried for an offence as described in this clause But can there really be any offence where the element of intention—by which I include a probable knowledge—is wanting? Will it not be subverting the whole principle which underlies all criminal jurisprudence? Therefore, I want to put in the word 'intentionally' in this clause. When there is non-compliance with the provision of payment of the entertainments tax, it will no doubt cause loss of Government revenue, but mere non-compliance as to payment cannot be styled as a criminal offence for

which a man is liable to be tried in a criminal court and liable to be fined up to Rs. 500. A mere statement of the fact will go to show that the underlying principle is not one which should be accepted in a court of law. You would drag the proprietor into the court and into the dock, and compel him to stand a trial, subject him to a fine, but at the same time it has not been made incumbent upon the prosecution to prove the only element which would make the thing criminal, namely, the intention, and therefore, in all fairness, this special law with its criminal offence, should have this word 'intentionally' inserted. At the same time, I had better mention before the Council that I do not mean to suggest that this non-payment and non-compliance with the demand for payment of the entertainments tax, should be encouraged in any way. I have therefore made a provision in amendment No. 40 for the realisation of this money which ought to have been paid as amusements tax in a particular way. I want to differentiate two things; if you yourself, on account of the laches of one of your own servants, or through an oversight cause loss of revenue to Government, you are liable to make good that loss, because of the summary procedure provided in the Act, or even on the mere report to a magistrate who can realise this amount from you by way of a fine. In this case, your only object to realise the money which ought to have been paid under the Entertainments Tax Act, also some penalty over that in order to ensure proper supervision. As regards realisation of the tax you can realise it in any way; yet the man who is charged has not to attend the criminal court, or go through all the indignities of a trial and subject himself to a fine. It is somewhat like the procedure in a civil case in which you can realise this money, which ought to have been paid, under the penalty clause; it would save time and trouble and other difficulties of going to a criminal court, and Government also at the same time does not lose money. Whereas if it is case of intentional omission, namely, intention to evade certain provisions of the law, that should be considered criminal and the person guilty should be liable to a regular trial in court and a fine of Rs. 500. Therefore my submission is that the Council should accept these two differentiations—*(1)*, it should be made a clear criminal offence with the element of intention, and *(2)* the money which ought to have been paid as tax should be realised with certain penalties. I am strengthened in my position by a similar provision in the Indian Railways Act, sections 112-113, by which the intentional evasion of payment of railway fare with a view to defraud the Company is an offence, but where on account of particular circumstances a man does not or cannot pay at the time of demand he has to pay double fare for which he is liable plus certain penalties. I do not see why this principle should not be accepted on this occasion also. With these words, I beg to place the amendment before the House.

Mr. H. E. SPRY: The proposal contained in this amendment of Babu Annada Charan Dutta, makes I think, the matter unnecessarily complicated. If I have understood the mover aright he proposes that where a

person is admitted to an entertainment contrary to the provisions of clause 4 and it is proved that he was admitted intentionally, the proprietor shall be liable to be dealt with under clause 5 and to be fined a sum not exceeding Rs. 500. If on the other hand, the proprietor does not contravene intentionally the provisions of clause 4, then apparently clause 5 will not apply, and under a subsequent amendment, which is No. 40, the suggestion is to realise a penalty, so that the revenue may not suffer, either as an arrear of revenue or on application to a magistrate. In so far as the penalty is to be realised by means of an application to a magistrate, the proposal differs little from the provisions of clause 5.

But I do not think the question of intention is really relevant in this matter. To take a hypothetic case, if 20 persons enter a cinema or theatre without paying the entertainment tax our attitude towards the proprietor is that he has allowed these people to defraud Government of public revenue. According to Babu Annada Charan Dutta he will have a complete defence, so far as this clause is concerned, unless it can be proved that the improper admission was intentional. The proprietor will certainly say he did not do it intentionally; and how is it going to be proved what his intention was? I think the mover is wrong in saying that in all criminal offences intention has to be proved. I believe I am right in saying that if my friend drives his car down Chowringhee after dark without a light, he will stand a very good chance of being run in before a magistrate and fined. There will be no question of his intention, he will have broken the law, and whatever his intention he will be liable to be punished.

Certainly my own personal experience supports this. On one occasion in my under-graduate days, I was summoned before a magistrate for riding a bicycle without a light. Whatever my intention may have been at the time—and I would prefer not to divulge to the Council what my intention was—I was not asked anything about it; there was a bye-law that if you ride a bicycle after sunset you must have a proper light; and on that simple fact the case was decided against me. I submit that this is the state of the law with regard to offences which are covered by bye-laws in this country. By seeking to introduce this word "intentionally" the mover is seeking to introduce something that it is well nigh impossible to prove, except by applying the presumption that a man intends what is the probable consequence of his action. If you apply that to a particular case or to a particular person, then the word "intentionally" is unnecessary and unreasonable.

I suggest another point, and that is that where the circumstances show that it was an oversight or mistake, or that it was against the wish of the proprietor that a person was admitted contrary to the provisions of clause 4, a purely nominal fine would be imposed. The punishment provided is a fine not exceeding Rs. 500, and we know perfectly well that in criminal cases it is very often felt that the circumstances are met suitably by the imposition of a nominal fine. I submit that this is what would

happen where a proprietor was prosecuted for an infringement of the law, and he could show that it was unintentional, and that he had not facilitated the defrauding of the public revenue.

I think the procedure that Babu Annada Charan Dutta proposes, of having prosecutions under section 5 if the offence is intentional, and having another procedure where it is not intentional, is unnecessary.

I therefore oppose this amendment.

The motion being put, a division was taken with the following result:—

AYES.

Addy, Babu Amulya Dhone.
Ahmed, Munshi Jafar.
Charmakar, Babu Rasik Chandra.
Dutta, Babu Annada Charan.
Janah, Babu Sarat Chandra.
Pal, Rai Bahadur Radha Charan.

NOES.

Afzal, Nawabzada K. M., Khan Bahadur.
Ahmed, Khan Bahadur, Maulvi Emaduddin.
Banerjea, the Hon'ble Sir Surendra Nath.
Barton, Mr. H.
Bhattacharji, Babu Hem Chandra.
Biss, Mr. E. E.
Bompas, Mr. C. H.
Bose, Mr. S. M.
Chaudhuri, Maulvi Shah Muhammad.
Chaudhuri, the Hon'ble Nawab Saiyid Nawab Ali, Khan Bahadur.
Das, Mr. S. R.
Deare, Lieutenant-Colonel S. H.
Duval, Mr. H. P.
Farequi, Mr. K. C. M.
French, Mr. F. C.
Chose, Mr. D. C.
Goode, Mr. S. W.
Hopkyns, Mr. W. S.
Huntingford, Mr. C. T.
Hug, Maulvi Ekramul.
Hussain, Maulvi Muhammad Madassur.
Kerr, the Hon'ble Mr. J. H.
Kesteven, Sir Charles Henry.
Khan, Mr. Razaur Rahman.
Khan Chaudhuri, Khan Bahadur Maulvi Muhammad Ershad Ali.
Lang, Mr. J.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble.
Mitter, the Hon'ble Mr. P. C.
Nasker, Mirza Muhammad Ali.
Parrott, Mr. P.
Pugh, Colonel A. J.
Rae, Mr. W. R.
Rahim, the Hon'ble Sir Abd-ur.
Salam, Khan Bahadur Abdus.
Spry, Mr. H. E.
Stark, Mr. H. A.
Stephenson, Mr. H. L.
Suhrawardy, Dr. Hassan.
Swan, Mr. J. A. L.
Walsh, Mr. C. P.
Wheeler, the Hon'ble Sir Henry.
Wordsworth, Mr. W. C.

The Ayes being 6 and the Noes 42, the motion was lost.

Rai RADHA CHARAN PAL Bahadur: I move that in clause 5, lines 3 and 4, for the words ' the proprietor of the entertainment ' the words ' the person in charge ' be substituted.

The question of intention or no intention has been passed over, and this is quite a different amendment which I have moved, although really to the same clause. It is well known that the cinemas and most of the theatres are run by proprietors who are not present, or do not themselves conduct the business, and it is also well known that some of these places of amusements are also run by limited companies. I think, therefore that it would be rather hard, in fact it would be unjust, to prosecute the proprietor of a theatre, who is generally an absentee man, when the actual man who is in charge of the theatre is allowed to escape. This

is a very simple resolution, it will not in any way go against the principle laid down in clause 5. The man, who is actually in charge of the place, if he is the proprietor himself or the manager appointed by the proprietor, should be liable for the infringement of the law if any, and should be dealt with according to the provisions of the Act. I hope the Hon'ble Member will kindly consider this suggestion, which does not in any way interfere with the revenue, and will accept my amendment.

The Hon'ble Mr. J. H. KERR: The person in charge of an entertainment is an expression which is not defined in any way in the Bill. On the other hand, the proprietor of the entertainment is defined in clause 2(8) as the person responsible for the management thereof. This Bill will be administered by a small staff of two or three inspecting officers. They will very soon come to know the circumstances of each individual place of entertainment; they will know who is responsible for the management, and they will know to whom to turn in the event of any evasion of the law being discovered. I think it is out of the question to suppose that these people who will administer the law would run in a *purdah nashin* lady who happened to be the proprietor of a Bengali theatre, they would naturally go for the person whom they know to be the person actually in charge or responsible for the working of the entertainment. According to the Rai Bahadur's amendment, "the person in charge of an entertainment" might be anybody at all and it might be very difficult to discover him. I suggest that we would do well to leave the term "proprietor" as defined in clause 8(2) of the Bill; I therefore oppose the amendment.

Rai RADHA CHARAN PAL Bahadur: May I ask the Hon'ble Member if I change the wording as defined in clause 2 'any person responsible for the management thereof, will it be accepted?

The Hon'ble Mr. J. H. KERR: I do not think we want the actual proprietor to go free in all cases. If the proprietor is himself managing the theatre, he would obviously be the proper person to be charged with any breach of the rules or regulations; but the provisions of the Bill enable the Inspector to prosecute the person whom he finds to be actually responsible at the time.

Mr. KRISHNA CHUNDER RAY CHAUDHURI: What will happen to theatres of joint-stock companies?

The Hon'ble Mr. J. H. KERR: The person who is responsible for the management would be liable.

Rai RADHA CHARAN PAL Bahadur: May I offer a suggestion. It may point out that there is a section in the Municipal Act where the owner or occupier of a hut is liable to a fine, but the owner is actually prosecuted, although he does not know anything about the matter.

The motion was put and lost.

The following amendment was, in the absence of the member, deemed to be withdrawn:—

Babu SURENDRA NATH MALLIK: (*1*) That in clause 5, line 4, after the word 'admitted' the following be inserted, namely,—

'or failing proof of the knowledge or cognizance of the proprietor, then the employee of the proprietor allowing, procuring or causing such admission, and

(*2*) That at the end of clause 5, the following be added, namely,—

'but the proprietor shall at all times exercise proper and reasonable supervision over his employees to prevent non-compliance with the provisions of section 4.'

Rai RADHA CHARAN PAL Bahadur: That in clause 5, line 6, for the words 'five hundred' the words 'two hundred' be substituted.

If any person enters the premises of a theatre or a cinema without paying the tax, the maximum fine is put down at Rs. 500. I suggest that it be reduced to Rs. 200. I think for an offence of not paying an anna, a fine of Rs. 200 is quite sufficient. Rs. 500 is rather too heavy a fine. I do not know if this will be accepted by the Hon'ble Member in charge, but I do not wish to waste any more time of the Council.

Rai Dr. HARIDHAN DUTT Bahadur: I beg to support the proposal of my friend Rai Radha Charan Pal Bahadur for two reasons. The first is that if you fix Rs. 500 as the penalty for the violation of this rule, then the Magistrate deciding the case will attach more importance to the offence than he would perhaps otherwise do. Magistrates very often decide the gravity of the offence from the amount of the fine allowed under the Act. The second reason is: if you refer to the last two lines of this section you will find that even the infliction of a fine upon the proprietor would not preclude you from realising from him the tax which should have been paid. So, that would be an imposition upon the proprietor over and above the amount of loss he would have to sustain. So, I do not think that if we accept the Rai Bahadur's amendment, we will be doing anything wrong.

Babu AMULYA DHONE ADDY: I had suggested that instead of the fine of Rs. 500, the amount of fine should be fixed at Rs. 250, but it appears from the amendment of Rai Radha Charan Pal Bahadur that he has suggested Rs. 200 and I agree to his suggestion.

Now, I would like to draw your attention to the opinions expressed by several public bodies. The Corporation of Calcutta has stated that a proprietor under this section shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 200 instead of Rs. 500; and thus in accordance with the unanimous resolution of the Corporation of Calcutta, my friend, Rai Radha Charan Pal Bahadur, has moved this amendment. The proprietor of the Monmohan Theatre has also stated that on the

analogy of the Income-tax Bill, the fine on the proprietor should in no case exceed the cost of the tax. So, it appears that, as in the case of the income-tax and in the case of non-payment of fares for railway journeys, the fine is a very limited one. It is generally twice the amount which is not paid. Then, it appears from the proceedings of the meeting of the Calcutta Corporation, our esteemed friend, Colonel Pugh, stated that in England this amount is realised as a civil debt and not as a penalty. The Bengal National Chamber of Commerce has expressed the opinion———

The Hon'ble Mr. J. H. KERR: Is the member in order in referring to these reports as they are all before the members of this Council?

Babu AMULYA DHONE ADDY: The Bengal National Chamber of Commerce has expressed the opinion that it is unreasonably hard. Then, it may be said that under the Bill it is stated that the penalty does not exceed Rs. 500, it may be one rupee; but having regard to the nature of the offence referred to in this clause, I submit that the maximum should not be Rs. 500 but on the contrary it should be reduced to Rs. 200.

Then, Sir, it is stated in clause 5 that a proprietor is to be fined. Under the definition, a proprietor includes any person responsible for the management thereof. Even if the manager is responsible for laches under this section, the Inspector in charge can cause conviction on the actual proprietor who may be an absentee. I would like to say that that is generally the case which happens in the administration of the Calcutta Municipal Act as well as the Smoke-Nuisances Act. It is generally found when the owner or occupier of a premises is liable to execute certain works, the Calcutta Corporation gets hold of the owner and not the occupier, though the occupier may be the real offender. There is another case which happens under the Smoke-Nuisances Act. If coke is manufactured by the owner of a hut, then under the law it is not only the said owner who is also the actual offender but the owner of the land is also made liable. I have come across cases in which a person living not in Calcutta but in the district of Hooghly and being the owner of a premises in Calcutta has been convicted not once but many a time for offences committed by his tenants over whom perhaps he had no control. That is the special reason why I beg to submit that the maximum punishment should be Rs. 200 as suggested by the Corporation of Calcutta.

The Hon'ble Mr. J. H. KERR: It seems to be supposed that this penalty of Rs. 500 is an invention of mine or of the Finance Department and that we have no solid reasons for proposing this particular rate. Those members who served on the Select Committee should be aware that there was a definite reason for fixing this amount. In the English Act, the penalty in a case of this kind is £50. It is a fixed penalty which cannot be varied, except at the discretion of the revenue authorities. The Courts have no power to reduce it; it is a penalty which is imposed automatically on any person who breaks the law. In England, as in

our Bill, the person who breaks the law is liable to pay not only the penalty, but also in addition any duty which should be paid under the law. In the first edition of our Bill, *i.e.*, in the Bill as it was first introduced, we proposed a fixed penalty of Rs. 500 which, I may point out, is less than £50. But in the Select Committee, we were at once assailed by the argument that this fixed penalty was unheard of and a monstrous thing in India and that the Council would never look at anything except a maximum penalty which could be reduced at the discretion of the Court. We gave way to that argument, but personally I was rather reluctant to do so. I believe that a fixed penalty is provided in most fiscal legislation in England. However, as I have said, we gave way and the result is that we have introduced the provision that the penalty is not to exceed Rs. 500. I can see no reason, Sir, for considering the maximum penalty of Rs. 500 to be excessive. We have to take into account the fact that there may be cases of systematic evasion of this tax by the people who are required by law to collect it. We are not here dealing only with cinemas or theatres or any particular form of entertainments; we are considering all entertainments to which the Act may be applied; and I suggest that it is not unlikely that we may find deliberate attempts being made to evade the law. In such cases, the penalty of Rs. 500 will by no means be excessive. Of course, it may sometimes be a technical offence or an act of carelessness and in such cases, the Magistrate will no doubt, in view of the circumstances, impose a nominal penalty. But we have to look, in framing the law, to the possible gravity of the offences which may be committed, and I suggest that a maximum penalty of Rs. 500 is by no means excessive.

Babu ANNADA CHARAN DUTTA: I move that after clause 5 the following be added, namely,—

> 'Provided that if a person is admitted for payment to any place of amusement and if the provisions of section 4 are not complied with, the proprietor of the entertainment shall be liable to pay the tax which should have been paid and also a penalty equal to double the amount of such tax and such tax and penalty may be recovered according to the provisions of section 9, as also by a Magistrate having jurisdiction over the place of entertainment on application or report being made to him and after notice to the proprietor.'

As the fate of my other amendments is still fresh in my mind, I beg to move this amendment with some trepidation and I do it formally. I want to differentiate between intention and its absence. We have heard it say in this Council that intention can never be proved. Any one who has any knowledge of the criminal laws knows that intention is not a tangible material which can at any time be produced out of one's pocket and demonstrated before a court of justice; but it is an element in a criminal offence and can and has to be proved.

Mr. H. E. SPRY: May I have your permission, Sir, to interrupt the mover of this amendment? The first part has already been decided and the second part consequently fails.

The DEPUTY-PRESIDENT: You cannot move it.

Babu ANNADA CHARAN DUTTA: The rejection of my amendment No. 32 takes out a certain element, which I wanted to make one of the ingredients in the offence referred to, whereas amendment No. 40 provides for a certain penalty to be paid in case of unintentional omission to realise payments. So one has no connection with the other: the offence is there. But at the same time, in case of unintentional omission to pay the tax I want to make certain penalty to be realised in a particular way, by the present amendment.

The DEPUTY-PRESIDENT: The question raised in your amendment has already been decided and your amendment consequently fails.

Babu ANNADA CHARAN DUTTA: I must bow to your ruling.

The other motions were then put and lost.

The DEPUTY-PRESIDENT: The question is that clause 5 stand part of the Bill.

The motion was put and agreed to.

Clause 6.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 6 stand part of the Bill.

The Hon'ble Mr. J. H. KERR: I move that in clause 6(3), lines 7 to 9, for the words 'combined with or involving the right of admission to any entertainment' the following be substituted, namely,—

> 'combined with the right or admission to any entertainment, or involving such right of admission without further payment or at a reduced charge.'

This particular amendment refers to a class of entertainments, of which I have no personal experience, where you go and have your dinner and after the dinner you dance paying for both refreshment and entertainment on one ticket. The representatives of the theatres told us that in Calcutta this particular class of entertainment is competing very strongly with the theatres and they urged that if one is taxed, the other should be taxed also. Of course, we do not propose to tax the dinner but we do want to tax the payment for admission to the dance. The object of the amendment is to enable us to do so.

The motion was put and agreed to.

Mr. J. CAMPBELL FORRESTER: I move that at the end of clause 6, the following be added namely,—

'(4) Representatives of the press, members of the theatrical profession, holders of advertisers' passes, and persons ordinarily granted complimentary tickets, being admitted without payment, shall be exempt from the tax upon each and every such admission to free boxes or seats by persons so privileged under any agreement or lease now in existence.'

I understand that protection is given to this class of persons by clause 6. But as doubts have been expressed in certain quarters, I only ask the Hon'ble Member in charge if it is so. If he can assure me that it is so, I shall withdraw the amendment.

The Hon'ble Mr. J. H. KERR: It will appear from the clause in question that the tax is calculated on the payment which is made for admission; and where there is no payment for admission, there can be no tax. I can therefore give the assurance which the mover has asked for. I think that this amendment is unnecessary.

The motion was then, by leave of the Council, withdrawn.

The DEPUTY-PRESIDENT: The question is that clause 6 stand part of the Bill.

The motion was put and agreed to.

Clause 7.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 7 stand part of the Bill.

Rai RADHA CHARAN PAL Bahadur: I move that in clause 7(*1*) (*a*), line 2, after the word 'philanthropic' the word 'religious' be inserted.

This clause lays down certain cases where exemption shall be granted by the Local Government. The entertainments which are exempted include those held for philanthropic or charitable purposes. I think that the word 'religious' should be inserted after the word 'philanthropic.' I may point out that this suggestion has also been made by the Bangiya Brahman Sabha, as printed in the "Collection of Opinions." As far as I find, I think that there is a strong feeling in the orthodox Hindu community that the word 'religious' should be inserted. The Bengal Mahajan Sabha, which is also an orthodox community, has also made the same suggestion, so that the Government may be enabled to exempt not only entertainments got up for philanthropic or charitable purposes but also for religious purposes.

I will now give you one or two illustrations. Suppose, for instance, an entertainment on the Bhagabat Gita, the Ramayan or the Mahabharat is given for the purpose of discussing religious topics, or, suppose there is a

recitation of the Mahabharat, the Ramayan or the Bhagabat Gita, it is always accompanied by a certain kind of orthodox entertainment and music. Therefore, I think, Sir, that the Local Government should exempt such entertainments, as they are held entirely for religious purposes and not for anybody's personal gain. I hope that my suggestion will be accepted.

The Hon'ble Mr. J. H. KERR: When this proposal was raised in the Select Committee, I asked if anybody could give us concrete instances of entertainments for religious purposes but nobody could do so. I do not think the Rai Bahadur has supplied us with any concrete instances to-night. I am told, however, that there are occasional entertainments to which people are admitted on payment and the proceeds of which are devoted wholly to religion. The payment is probably less than eight annas, and if so, it would not be touched by the Bill. However, I have no objection to accepting this amendment, as discretion is left with the Local Government. I have no doubt that if the Local Government found that an entertainment was liable to the tax, but that the proceeds were wholly devoted to religion, the Local Government would exempt the entertainment. I am, therefore, prepared to accept the amendment ("Hear, hear").

The motion was put and agreed to.

Mr. H. STARK: I move that in clause 7(*i*) (*a*), line 2, after the word 'philanthropic' the words 'or education' be inserted. So, the clause will read:—

> (*a*) that the whole of the takings thereof are devoted to philanthropic or educational or charitable purposes without any charge on the takings for any expenses of the entertainment; or

There is a difference between sub-clause (*a*) and sub-clause (*b*). The former speaks of purposes to which the takings will be devoted, while the latter relates to the character of entertainments of an educational character. There is no necessity in (*b*) as to what is to be done with the takings. I am thinking of schools which are in financial difficulties and which are accustomed once or twice a year to face a deficit by getting up an entertainment either by the pupils of the school or by their friends, charging something for admission and devoting the proceeds thereof entirely to make good the deficit. In such a case, you cannot say that it is philanthropic, nor can you say that it is charitable; on the other hand, it is purely for educational work. I therefore ask that, if it is established that the takings are to be devoted for the help of an educational institution or educational work, such entertainments held for this purpose should be exempted from the operation of this Bill. The difference, I think, between what is philanthropic and what is charitable may not be educational. Therefore, I say that it will be well to protect schools and that can be done if the words 'or educational' be put in.

Clause (2) of this section says that the Local Government may, by general or special order, exempt any entertainment or class of entertainments from being able to the entertainments tax. There is therefore a provision for such exemption; but we have to deal with school teachers, men and women, and I do not think that they are well conversant with the law, as I have found them to be, and there may be misunderstandings committed and mistakes made. I therefore suggest that if the intention of such entertainments be to devote the takings which are raised to educational purposes, we should exempt them from this tax. I feel myself that it will simplify matters and with the assistance of teachers the inclusion of this provision in the Bill may be made known.

Mr. H. E. SPRY: Although I have every sympathy with the amendment which Mr. Stark has brought forward and with the idea underlying it, I regret that I am unable to accept it. The effect of accepting it will make the clause read as follows:—

> (*a*) that the whole of the takings thereof are devoted to philanthropic, educational, or charitable purposes without any charge on the takings for any expenses of the entertainment; or

Well, Sir, there are educational purposes and educational purposes; and I think the mover of this amendment will agree with me that, in Calcutta as elsewhere there are a number of educational institutions owned by private individuals. I can conceive the case of a privately-owned school—I know many of them, high schools and secondary schools—being rather badly off in the matter of funds and requiring to raise money. If an entertainment is given for the purpose of raising funds the whole of the proceeds would go to the proprietor of the school, and technically he could come to the local Government and say that the whole of the proceeds would be devoted to educational purposes. I do not think it is reasonable to expect Government to exempt from payment of the tax any kind of entertainment which is got up by a person who owns a school with the object of refilling his pockets.

Sir, I discussed this amendment with Mr. Stark outside this Chamber and I suggested to him then, and suggest to him now, that the expression "educational purposes" is a very wide one. At the same time, we recognise that there may be cases where it would be suitable that an entertainment, the whole of the proceeds of which are intended for the benefit of an educational institution or for some educational purpose, should be exempted from the provisions of this Bill. The Local Government have power, as has been pointed out more than once this afternoon, under clause 7 (2), to exempt any entertainment or class of entertainment if the circumstances appear to be such that it is desirable to do so. I think the House may take it that that power will be exercised in a reasonable way. At the same time, on behalf of Government, I must oppose this amendment, because we feel that it opens the door wider than is reasonable. As I have already said,

' educational purposes ' is a wide expression, and I think that all legitimate cases for exemption or any case of hardship arising out of special circumstances can be dealt with adequately under clause 7(2) of the Bill. I therefore oppose the amendment.

The motion was then put and lost.

The following amendment, standing in the name of Maulvi Shah Abdur Rauf, was, in the absence of the member, deemed to be withdrawn:—

That in clause 7(*1*) (*a*), line 3, for the word ' without ' the word ' minus ' be substituted.

Babu AMULYA DHONE ADDY: I move that in clause 7(*1*) (*a*), lines 3 and 4, the words ' without any charge or the takings for any expenses,' the words deducting the actual expenses thereof ' be substituted.

This is in accordance with the opinion of the Marwari Association as well as the Calcutta Corporation. You cannot expect a person to have a charity performance without deducting therefrom the actual expenses. If you insist on that, the result will be deplorable. The result will be that any such charitable performance will not be allowed, and that is why I insist on this amendment being put.

The Hon'ble Mr. J. H. KERR: We cannot accept this amendment. We have in clause 8 provided for a refund of the tax in cases where the entertainment is intended for charitable purposes and where not more than 20 per cent. of the gross proceeds have been deducted on account of expenses. That, I think, is reasonable. Among my own community it is very common to get up an entertainment, the takings of which are to be devoted to charity, and people are pestered to buy tickets for such entertainments. Then when the accounts are made up, it is found that nearly all the takings are swallowed up by the expenses and remarkably little is left for charity. That is not the class of entertainment which we want to allow to escape. We have already made a provision for refunds in certain circumstances when we think it desirable, and we are not prepared to make a wider provision in clause 5.

The motion was then put and lost.

Rai Dr. HARIDHAN DUTT Bahadur: I move that in clause 7(*1*) (*a*), line 4, for the words ' for any ' the words ' except the actual ' be substituted.

Mr. H. E. SPRY: May I rise to a point of order? This is exactly the same as the amendment moved by Babu Amulya Dhone Addy.

The DEPUTY-PRESIDENT: I cannot allow you to move it.

Rai Dr. HARIDHAN DUTT Bahadur: But, Sir, I was not allowed an opportunity to speak on this amendment. Although the purpose for which I move this amendment is practically similar to that of Mr. Addy,

I must say that I want to put it in a different way, and as such my amendment may be taken into consideration.

The DEPUTY-PRESIDENT: As an exactly similar amendment has been disposed of, I cannot allow you to move this.

The following amendments were, in the absence of the members, deemed to be withdrawn :—

Mr. H. A. STARK: That in clause 7(*1*) (*b*), line 2, after the word 'character' the words 'solely for an educational object' be inserted.

Babu SURENDRA NARAYAN SINHA: That in clause 7(*1*) (*e*), line 4, after the words 'industry or agriculture' the words 'or the co-operative movement' be inserted.

Babu SURENDRA NARAYAN SINHA: That after clause 7(*1*) (*e*), the following be added, namely,—

'(*f*) that the entertainment is of a form indigueous to the country such as *jatra*, *kabi*, *panchali* or other similar form of entertainment or is in connection with a ceremony of a religious or socio-religious character.'

The DEPUTY-PRESIDENT: The question is that clause 7, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 8.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 8 stand part of the Bill.

Rai RADHA CHARAN PAL Bahadur: I move that in clause 8, line 5, for the words 'twenty per cent.' the words 'twenty-five per cent.' be substituted.

Before this is put to the vote, I beg your permission to draw attention to the omission of one word here. This clause enables the Local Government to make refunds under certain circumstances when the Local Government is satisfied that the whole of the nett proceeds of an entertainment are devoted to philanthropic or charitable purposes and not more than 20 per cent. is deducted to meet the expenses for getting up the show. Here the words "philanthropic or charitable" occur, but as the Council has accepted the word "religious," may I suggest that the words "or religious" be added here? I need not worry the House with any lengthy speech as I understand that Government are quite willing to accept not only the amendment, which I have just proposed, of which no written notice was given, but also the amendment which stands in my name.

The Hon'ble Mr. J. H. KERR: I am prepared to accept both the amendments. The mention of religious purpose follows the same principle which we have adopted in a previous clause, and I have also no objection to raise the limit of expenses from 20 to 25 per cent.

The motion that in clause 8, line 5, for the words "twenty per cent." the words "twenty-five per cent." be substituted and that the word "religious" be added after the word "philanthropic" was then put and agreed to.

The following amendment, standing in the name of Babu Surendra Narayan Sinha, was, in the absence of the members, deemed to be withdrawn:—

That clause 8 be numbered as clause 8(*1*) and that at the end of this clause the following sub-clause (*2*) be added, namely,—

'(*2*) When any entertainment or class of entertainment is expressly mentioned to be "a benefit performance" for the relief of distress caused by fire, flood, or famine, or is for similar philanthropic or charitable purposes, and the expenses of such entertainment exceed 20 per cent. of the gross proceeds, such entertainment shall be taxed at half rates.'

The DEPUTY-PRESIDENT: The question is that clause 8, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 9.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 9 stand part of the Bill.

The motion was put and agreed to.

Clause 10.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 10 stand part of the Bill.

Rai RADHA CHARAN PAL Bahadur: I move that in clause 10(*1*), line 2, after the word 'may' the words 'on the production of a certificate empowering him in that behalf' be added.

This clause enables any person authorised by the Local Government for the purpose of inspection to enter any entertainment or theatre or place of amusement. It not often occurs, especially in the cinemas where the lights are put out—and there have been some cases like this—that people pretending to be in the employ of Government go to these

places in order to impose upon the people there. Therefore I think there should be some safeguard that the man who is authorised to inspect the cinemas and theatres should have some authority with him, and he should produce that written authority when asked to do so. If a man is arrested by a police officer, he can ask the officer to produce the warrant.

Mr. H. E. SPRY: I rise to oppose this motion. The position is that there will be very few Inspectors of cinemas and theatres under this Act. It is quite clear, as the Rai Bahadur has pointed out, that these officers will have to carry about with them the authority of Government empowering them to enter a place of amusement. Certainly they will have to do so at the beginnnig of their career as Inspectors, but as these officers will be very few, one expects that in the course of a few months or a year, they will become well known to the people connected with these entertainments. And it seems unreasonable to insist that because a man who is perfectly well known, and who has been Inspector for some time happens not to have on his person the authority of Government appointing him Inspector, he should be refused admission to a theatre, or that he should have no authority to prosecute a person who infringes the law in his presence. I think the Rai Bahadur need not entertain any apprehension in this matter. We intend the Inspectors to go armed with their authority, and it is in our interest that they should do so. But we are unable to accept an amendment which would leave an Inspector powerless if he happened to leave his authority at home. That is a position that cannot be accepted. At the same time I can assure the House on behalf of Government that these officers will be required to carry with them while on duty evidence of their authority.

The motion was then put and lost.

The following amendments, standing in the name of Babu Surendra Nath Mallik, were, in the absence of the member, deemed to be withdrawn:—

That in clause 10(1), line 2, after the word 'may' the words 'upon production of his written authority' be inserted.

That in clause 10(2), line 2, after the word 'authorised' the words 'after production of the said written authority' be inserted.

The DEPUTY-PRESIDENT: The question is that clause 10 stand part of the Bill.

The motion was put and agreed to.

Clause 11.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 11 stand part of the Bill.

Rai RADHA CHARAN PAL Bahadur: I move that in clause 11(2), line 4, for the words 'five hundred' the words 'one hundred' be substituted.

It is of no use making any speech as I know that it will not be accepted. So I simply move it. Let it be thrown into the river Hooghly.

Babu AMULYA DHONE ADDY: I withdraw my amendment in favour of that moved by Rai Radha Charan Pal Bahadur. I am sorry that my friend has got disappointed at the attitude taken by the Council. But I am not disappointed because we have a just cause and we must move in the matter. It appears that the maximum penalty under clause 11 is Rs. 500. It appears that the nature of the offence is nothing in comparision with that under clause 5 under which the maximum penalty is also Rs. 500. Now if the maximum penalty for an offence committed under clause 5 is Rs. 500, then the maximum punishment for an offence committed under the rules prescribed in clause 11 should certainly be less than Rs. 500. It will thus appear that the suggestion of my friend is reasonable and I hope that it may be accepted by the Council.

The following amendment was then, by leave of the Council, withdrawn:—

That in clause 11 (2), line 4, for the words 'Five hundred' the words 'Two hundred and fifty' be substituted.

The Hon'ble Mr. J. H. KERR: I cannot agree that an offence under clause 11 is less serious than an offence under clause 5. The offence under clause 11 is a breach of the regulations which Government may issue for the purposes of carrying out the provisions of this Act, while that under clause 5 is for an evasion of the law. An offence under clause 11 might involve considerable loss of revenue if carried out on a large scale, and so we have put the maximum penalty at Rs 500. The same argument applies as in the case of the penalty under clause 5. I would therefore ask the House to reject the amendment.

The motion was then put and lost.

The DEPUTY-PRESIDENT: The question is that clause 11 stand part of the Bill.

The motion was put and agreed to.

Adjournment.

The Council was then adjourned to Thursday, the 16th March, 1922, at 3 P.M. at the Town Hall, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber in the Town Hall, Calcutta, on Thursday, the 16th March, 1922, at 3 P.M.

Present:

The Deputy-President in the Chair, the Hon'ble the four Members of the Executive Council, the Hon'ble the three Ministers, and 71 nominated and elected members.

Government Bills.

The Bengal Amusements Tax Bill, 1922.

Clauses 12 and 13.

The DEPUTY-PRESIDENT: (Babu Surendra Nath Ray): The question I now have to put is that clauses 12 and 13 stand part of the Bill.

The motion was put and agreed to.

Clause 14.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 14 stand part of the Bill.

The following amendment was, in the absence of the member, deemed to be withdrawn:—

Babu AMULYA DHONE ADDY: That in clause 14, for the word 'four' in the two places where it occurs the word 'five' be substituted.

The following amendment was, by leave of the Council, withdrawn:—

Babu RISHINDRA NATH SARKAR: That in clause 14, for the words 'four per cent' in the two places where they occur, the words 'twenty per cent.' be substituted.

The DEPUTY-PRESIDENT: The question is that clause 14 stand part of the Bill.

The motion was put and agreed to.

Clauses 15 and 16.

The DEPUTY-PRESIDENT: The question I now have to put is that clauses 15 and 16 stand part of the Bill.

The motion was put and agreed to.

Clause 17.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 17 stand part of the Bill.

The following amendments were, by leave of the Council, withdrawn:—

Mr. AJOY CHUNDER DUTT: That after clause 17 the following be added, namely,—

'(3) There shall, as from the second day of April, 1922, be charged, levied, and paid to the Government of Bengal out of all monies paid or agreed to be paid to a licensed bookmaker by backers in pursuance of bets made in an enclosure set apart under the provisions of the Bengal Public Gambling (Amendment) Act, 1913, on races, a tax on bookmakers, hereinafter referred to as the bookmaker's tax, amounting to two-and-a half per cent. of the net profit made by a bookmaker.

Explanation i.—The net profit hereinbefore referred to shall be calculated by deducting the sum total of the monies paid, or agreed to be paid, by a bookmaker to backers, from the sum total of the monies paid or agreed to be paid to a bookmaker by backers in satisfaction of bets made on races in the course of one day.

Explanation ii.—In calculating the bookmaker's tax allowance shall be made for such sums due to a bookmaker from backers in respect of bets, as may be proved to the satisfaction of an officer appointed in this behalf by the Local Government, to be irrecoverable'.

Babu RISHINDRA NATH SARKAR: That for clause 17, the following be substituted, namely,—

'17. There shall, as from the second day of April, 1922, be charged, levied, and paid to the Government of Bengal out of all monies paid or agreed to be paid to a licensed bookmaker by way of stakes or bets, a tax on backers, hereinafter referred to as the betting tax, amounting to twenty per cent. of every sum so paid or agreed to be paid; and twenty per cent. of every sum so paid or agreed to be paid to a licensed bookmaker shall be deemed to have been paid by the backer on account of the betting tax, and shall be retained by the licensed bookmaker on behalf of Government.'

Mr. S. M. BOSE: That for clause 17 (*1*), the following shall be substituted, namely,—

'(*1*) There shall, as from the second day of April, 1922, be charged, levied, and paid to the Government of Bengal out of all monies paid, or agreed to be paid to a licensed bookmaker by a backer in respect of a bet made in an enclosure set apart under the provisions of the Bengal Public Gambling (Amendment) Act, 1913, as amended by this Act, on any race, a tax on backers, hereinafter referred to as the betting tax, amounting to two-and-a-half per cent. on all such monies.'

The following amendment was, in the absence of the member, deemed to be withdrawn:—

Babu SAILAJA NATH ROY CHAUDHURI: That for clause 17 (*1*), the following be substituted, namely,—

'There shall, as from the second day of April, 1922, be charged, levied, and paid to the Government of Bengal out of all monies received by a licensed bookmaker from the backer of a bet made in an enclosure set apart under the provisions of the Bengal Public Gambling (Amendment) Act, 1913, on any race, a tax on backers, hereinafter referred to as the betting tax, amounting to two-and-a-half per cent. of all such monies.'

The following amendments, standing in the names of Rai Radha Charan Pal Bahadur and Babu Annada Charan Dutta, were by leave of the Council, withdrawn:—

That in clause 17 (*1*), lines 4 and 5, for the words 'paid by a licensed bookmaker to a backer in consequence of the winning by the backer of a bet made' the following be substituted, namely,—

'paid to a licensed bookmaker by a backer in respect of a bet made.'

The following amendment was, in the absence of the member, deemed to be withdrawn:—

Babu AMULYA DHONE ADDY: That in clause 17 (*1*), line 9, for the words 'two-and-a-half' the word 'five' be substituted.

Mr. KRISHNA CHANDRA RAY CHAUDHURI: I move that in clause 17 (*1*), line 9, for the words 'two-and-a-half' the word 'four' be substituted.

The reason is obvious. If we are going to get Rs. 12 lakhs by a 2½ per cent., we will get more by 4 per cent. I understand that the Hon'ble Member in charge is willing to accept my amendment.

Sir CHARLES KESTEVEN: When I came to the Council yesterday, I was somewhat taken by surprise to hear that the Government had already accepted this amendment. That being so, I am aware that nothing I can say can affect its fate in any way. I also realise from

conversations I have had with other members and from the applause with which the Hon'ble Finance Member's statement of the decision was received that I am ploughing rather a lonely furrow. But I crave the indulgence of the House while I make a few remarks in regard to it in order to make my position clear. I wish to do this for two reasons; first to "save my skin" if I may use such colloquial expression, for I do not wish it to be thought that I am in any way in favour of this amendment, for I strongly disapprove of it, and I have realised from conversations I have had with them that the backers also strongly disapprove of it, and secondly, to sound a note of warning.

In the first place I am afraid I cannot agree with the premise which the mover of the amendment has asked the Council to accept, *i.e.*, that as a matter of course more revenue will be derived by the increase from 2½ to 4 per cent.

I will make my position quite clear. I now speak on behalf of the backers because there is no one else to speak for them. When I addressed the Council on the previous occasion when the Bill was introduced, I spoke a few words on behalf of the bookmakers, because I then understood that they were not represented in the Council and had no means of making their voices heard. That position is now entirely altered. The bookmakers, through their representatives, have appeared before the Select Committee and have had ample opportunities, in and out of the Council, of representing their case, and they certainly do not require any further advocacy from me. The backers, on the other hand, have been in no way represented or protected. They were told that they would be taxed to the extent of 2½ per cent. of winning bets, and they wake up this morning to find that the tax has been increased to 4 per cent. From the conversations that I have had with backers, I found that they were prepared to accept 2½ per cent. notwithstanding the fact that some of them thought that it was an unfair tax. I do not think that most of the members of the Council appreciate the way in which the tax will fall. For instance, a backer might lose Rs. 25,000 or Rs. 30,000 on five races and win Rs. 15,000 or Rs. 20,000 on the sixth race. He would be taxed on the winnings of the sixth race although on the day he would have a large losing balance. That is felt to be a very unfair imposition.

As for myself, and my attitude in the matter, I may say that I am not a backer. I am precluded by my official association with the Turf Club from having any bets on horse-racing at all. Moreover, I would point out that in so far as this imposition will tend to drive bets from the bookmakers to the totalisator, the Turf Club will clearly benefit. Therefore, I have no personal interest. I wish to make that clear in order to show what I have stated is what I believe to be the legitimate grievances on the part of the backers. Analogies have been drawn between betting with the bookmakers and the totalisator and it has been said that the taxation of the two should be proportionate.

As to that, I think, there can be no real analogy between the two. Colonel Pugh, speaking on the introduction of the Bill, said that he thought that all betting might be regarded, from the point of view of this legislation, as an amusement. I wish to emphasise that however that may be true as regards the totalisator, it is not the case with betting with the books when very large sums are invested entirely as a matter of business. I think, therefore, that a line of demarcation should be drawn between betting with the totalisators and betting with the bookmakers.

In the second place, Sir, I wish to take this opportunity of sounding a note of warning. It is perfectly clear that any difficulties placed in the way of backers must have a deleterious effect on the amount of money that passes through betting agencies—the bookmakers or the the totalisator. Betting is a curious thing and depends a great deal on psychology. A man may be hesitating as to whether he will bet or not and a litte thing—a disadvantage, or something taken out of the bet—might prevent him from betting at all. Another point which I wish to emphasize is that this tax of 4 per cent. is estimated to produce Rs. 18 lakhs. Taking Rs. 18 lakhs out of the betting capital in Calcutta must have the effect of proportionately reducing the amount available for betting and which will go through the bookmakers and the totalisator and thus reducing the amount of revenue to be got from the tax. It is impossible to imagine, in spite of the many loose statements made, that people will bet, irrespective of any obstacle placed in their way. A much more material point is the grave danger that exists in the probability that any imposition on betting will have the tendency to drive it underground. It has been assumed that a great concession has been made by making unlicensed betting illegal even inside the enclosure of the race course and that this will prevent illegal betting. That is a dangerous assumption. We all know that whatever the law may say it is impossible to prevent malpractices when the inducement is very great. Up to now there has only been one prosecution—the case is now proceeding and so I am debarred from commenting upon it, but it is quite certain that if any great inducement is given, means for outside betting will be found. The matter may have to be very seriously reconsidered in the future. That will depend on the figures realised by the taxation, but I think these difficulties are likely to be experienced in the near future. In this connection, I may instance the admitted failure in Bombay to stop illicit betting. The bookmakers are untouched by this legislation and I would wipe out what I have said on the previous occasion on their behalf. They have used their opportunities so successfully that they have escaped while an additional 1½ per cent. has been put on the unfortunate backer. I would in conclusion express a hope that the rates of taxation will be reconsidered at the first opportunity.

Rai MAHENDRA CHANDRA MITRA Bahadur: I wish to intervene in the debate. I have listened to the speech of the last speaker

when he said that 4 per cent. is a very high tax and that such a high standard ought not to have been applied. Sir, when we, the members of this Council, fought for the protection and relief of the poor with regard to the Stamp and the Court-fees Bill we were told that they were necessary for the increase of revenue. We spoke to the Council again and again on the subject, but the answer of Government was that it was necessary for the increase of revenue. The same argument will apply *mutatis mutandis* to the tax on betting, which I consider is a luxury. The Court-fees Bill has been enacted for the poor litigants and the Stamp Bill for the business men. Then how can it be argued that, although the taxes in the shape of court-fees and in the shape of stamps will be levied, those who are addicted to betting will go scot-free. Take into consideration the reason why the taxation Bills have been passed. In normal state of things, probably, no one contemplated the imposition of tax, but it was contended that these have been found necessary owing to the present state of our finance. The last speaker gave us a note of warning and has told the same thing which I said when discussing the Court-fees Bill. I also gave the same warning to the Council, but Government thought it necessary in the peculiar circumstances of the case to make such an imposition of taxes. Sir, the reconsideration of the rates of taxes is a matter of the future. But although we may give notes of warning twenty times, Government thought it necessary in the interest of the people that such imposition will be made. Therefore, I support the amendment of my friend Mr. Chaudhuri, and oppose the views which have been put forward by the last speaker.

Colonel A. J. PUGH: I do not think that the Finance Department have done very well with regard to this betting tax. I rather indicated on the last occasion, when they introduced the Bill, that they did not know very much about it, and what strikes me as being particularly extraordinary is this: Mr. Kerr told us that he brought in a gentlemen to this Council as an expert member to advise Government because they knew nothing about betting and then they agree to an amendment of this sort without even consulting that gentlemen at all.

Various small questions arise with reference to this matter. One is, as Sir Charles Kesteven has said, that the only person who gets off scot-free is the bookmaker. Now the bookmaker, as a matter of fact, does not get off scot-free because under this Bill he will have to pay what he pays out to the backers irrespective of the fact whether he collects the amount or not. The bookmaker has to pay the tax of 4 per cent. on what he has agreed to pay to the backer, and we all know that a very large proportion of the bets that are made with the bookmakers are book bets and not cash bets at all. That makes a very great difference. A fairly large sum of these book bets turn out to be bad debts and are not collected for months to come, if at all. Yet the bookmaker will have

to pay the amount of tax in advance and before he actually collects the money himself.

The bookmaker in that respect will suffer to a certain extent. I see that the expert adviser has now rather come to the conclusion that I suggested originally and that was, that the bookmakers and totalisator should be placed on the same footing. The Government, by not placing them on the same basis, are losing a very large sum of money because we have it from the evidence before the Special Committee that Rs. 6 to 7 crores are paid yearly to the bookmakers as compared to Rs. 2½ crores of the totalisators. Therefore you are only realising 4 per cent. on the Rs. 2½ crores paid in and we are realising 4 per cent. on what is paid out by the bookmaker. Now, of course, I realise that there is considerable difficulty in paying in the case of book debts and putting the bookmakers and totalisators on the same basis.

The Government or the Finance Member is in the position of a woman who goes down to the seaside on a rather cold day and only dips her toes in the water. If they had taken the plunge and gone on and legalised betting at the totalisator and at the race course, then they would have done away with the objections of the bookmakers to pay 4 per cent. on all monies received or to be received by them. Of course I recognise that this cannot really be done unless you legalise betting and so enable the bookmakers to recover debts, but since Government have recognised betting, it only remains for them to go one step further and legalise the recovery of debts.

I entirely agree with the remarks that have fallen from Sir Charles Kesteven.

Rai JOGENDRA CHUNDER GHOSE Bahadur: I beg to support the amendment of Mr Krishna Chandra Ray Chaudhuri. Gambling is a vice as ancient as the Vedas. It was so very prevalent that the great epics, the Mahabharata and the Naishada, were written in order to put a stop to it. Since that time gambling became unpopular in the country. But since the British came here our friends, the Marwaris, have made it popular and so have the English, especially betting at the races. I know, Sir, how many men resort to the races, and how many fair lives have been blasted by betting at the races. I therefore desire that there should be, if possible, a check upon it if you desire to put a check on drinking by putting additional taxation on it, why should you not do the same in the case of betting? Betting at the horse races may be an English national pastime, but there is no reason whatsoever why we, poor people of Bengal, should get that pastime from England. It is not a good thing to get. I therefore submit that this additional check should be imposed upon betting in this country.

MEMBER in charge of DEPARTMENT of FINANCE (the Hon'ble Mr. J. H. Kerr): As Sir Charles Kesteven and the Stewards of the Royal Calcutta Turf Club have been so extremely kind and helpful in

the matter of this Bill, I very much regret the misunderstanding which has arisen. I shall explain presently what our reasons were for putting this tax up to 4 per cent., but I should just like to say that we mentioned the matter to Sir Charles Kesteven last week and we understood that he would not raise any serious objection provided the Bookmakers' Association had no objection to make. That is the understanding we had. If, however, we had realised that the objections of Sir Charles Kesteven were so strong as he has stated to-day we should certainly have discussed the matter with him further. The position is this. When we introduced the Bill our intention was to maintain the existing equilibrium between betting on the totalisator and betting with the bookmakers. We put our proposal in regard to the totalisator betting at the rate of 2½ per cent. and we thought that a similar rate would be applicable to the bookmaker's transactions, but we have been going into the matter in greater detail during the past few weeks and we have found that the two things cannot be compared on these lines at all. At present, as the Council know, 10 per cent. is deducted from the investments in the totalisator and the remaining 90 per cent. is distributed among the winners. We have got similar figures for the transaction of the bookmakers and we find that they retain only 3 per cent. of the total bets made with them, the balance of 97 per cent. being distributed to the winners. The takings of the bookmakers are also very much larger than those of the totalisator, nearly three times as great. When we got these various alternative proposals for varying the form of the betting tax from different members of this Council and other proposals which do not appear on the agenda paper, we went into the whole matter very thoroughly with the members of the Select Committee and we gave them opportunities of meeting the representatives of the Bookmakers Association. We came to the conclusion that having regard to the comparatively small deduction which is made from the takings of the bookmakers before distribution of the balance to the winning public, we could not defend our original rate of 2½ per cent. and we suggested as a compromise that we should raise that rate to 4 per cent. That compromise was accepted by the Bookmakers' Association to the extent that they agreed with us that we could not defend the original rate of 2½ per cent. Even as the proposal now stands, the aomunt retained out of the bets made with the bookmakers will be only 7 per cent. as compared with 12½ per cent. on the totalisator. These are the reasons which led us to the conclusion that we could not resist this amendment and we felt that it would be well to agree with the adversary quickly lest worse things should befall. I regret that our expert adviser, as Colonel Pugh has poined out, now disagrees with us, but in regard to that I can only say that we have more knowledge about this business than we had a month ago and we now feel capable of judging the matter for ourselves. It is quite likely, as Sir Charles Kesteven has said, that experience will show the necessity of varying the rates of this tax. Whether we shall

vary them up or vary them down is another matter. We are undoubtedly taking something of a leap in the dark so far as the rates are concerned, but the figures I have mentioned seem to indicate that we can get this extra 1½ per cent. without any serious risk, and in that view Government are prepared to accept this amendment.

The motion was put and agreed to.

Mr. KRISHNA CHANDRA RAY CHAUDHURI: The object of the next amendment which stands in my name is to impose the minimum possible tax on the bookmakers who are practically left unhurt by these new taxes, and I agree with Sir Charles Kesteven that no serious attempt has been made to touch the bookmakers' pocket. I admit that they have to pay heavy charges exacted by the Calcutta Turf Club, that they have to invest a certain amount of capital. After having seen their books, I cannot say that they are making very large amounts of money and giving champagne dinners, or riding on Rolls-Royce cars. These books are checked by the Income Tax Department and the Calcutta Turf Club. Having regard to the fact that we are already getting Rs. 18 lakhs out of betting, I would rather not insist upon moving my amendment which would impose an additional duty of a lakh of rupees but it would entail great trouble in collecting these taxes.

I therefore withdraw my amendment. It was as follows:

That at the end of Clause 17 (*1*) the following be added namely:—

'An additional tax shall be chargeable upon every bet made with a licensed bookmaker in an enclosure set apart under the provisions of the Bengal Public Gambling (Amendment) Act, 1913, at the rate of four annas, whether the amount wagered by the backer is or is not paid to the bookmaker on the making of such bets.'

The following amendment of Mr. S. M. Bose failed as being covered by a previous decision of the Council:—

That in clause 17 (*2*), line 3, for the word 'to' before the words 'the backer' the word 'by' be substituted.

The DEPUTY-PRESIDENT: The question is that clause 17, as amended, stand part of the Bill

The motion was put and agreed to.

Clause 18.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 18 stand part of the Bill.

The following amendment, standing in the name of Mr. Ajoy Chunder Dutt, was, in the absence of the member, deemed to be withdrawn:—

That in clause 18, line 1, after the word ' betting ' the words ' and the bookmakers ' be inserted.

The DEPUTY-PRESIDENT: The question is that clause 18 stand part of the Bill.

The motion was put and agreed to.

Clause 19.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 19 stand part of the Bill.

The following amendment, standing in the name of Babu Sailaja Nath Roy Chaudhuri, was, by leave of the Council, withdrawn:—

That in clause 19 (*2*), line 2, for the words ' paid by them to backers' the words ' paid to them by backers' be substituted.

The following amendment, standing in the name of Mr. Ajoy Chunder Dutt, failed:—

That in clause 19 (*2*), line 2, after the word ' backers' the following be inserted, namely,—

' and all sums paid or agreed to be paid to them by backers.'

The following amendment, standing in the name of Babu Annada Charan Dutta, was, by leave of the Council, withdrawn:—

That in clause 19 (*2*), lines 2 and 3, for the words ' by them to backers in satisfaction of bets' the following be substituted, namely,—

' to them by backers in respect of bets.'

The following amendments, standing in the name of Mr. S. M. Bose, failed:—

That in clause 19 (*2*)—

(*a*) in line 2, for the words ' by them to backers,' the words ' to them by backers ' be substituted, and

(*b*) in line 3, for the word ' satisfaction, ' the word ' respect ' be substituted.

The DEPUTY-PRESIDENT: The question is that clause 19 stand part of the Bill.

The motion was put and agreed to.

Clause 20.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 20 stand part of the Bill.

The motion was put and agreed to.

Clause 21.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 21 stand part of the Bill.

The following amendment, standing in the name of Mr. Ajoy Chunder Dutt, was, in the absence of the member, deemed to be withdrawn:—

"In clause 21, line 2, after the words 'and the' the words 'bookmakers and' be inserted."

The DEPUTY-PRESIDENT: The question is that clause 21 stand part of the Bill.

The motion was put and agreed to.

Clause 22.

The DEPUTY-PRESIDENT: The question I now have to put is that clause 22 stand part of the Bill.

The motion was put and agreed to.

Preamble.

The DEPUTY-PRESIDENT: The question I now have to put is that the Preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. J. H. KERR: I move that the Bill, as settled in Council, be passed.

As we have now completed our labours in connection with these taxation Bills, I may perhaps be allowed to congratulate the Council on the success of their endeavours to put the finances of the Government of Bengal on a sound footing. I am afraid that as a result of our discussion during the past week, the slender surplus which we set out to obtain has somewhat dwindled, and I foresee a certain amount of trouble and difficulty about the allocation of that surplus, but this is a small matter in comparison with the outstanding fact that the Council has rescued the Government from bankruptcy, and that is an achievement which, I think, will stand to the credit of the Council after many other things have been forgotten.

It is now my pleasant duty to thank those who have assisted us in our somewhat unpleasant task. First of all, I should like to thank those members of this Council who in Select Committee or in this House have done their best to improve these Bills. Many of those members, I know, dislike the Bills thoroughly; therefore, our gratitude is all the more due to them for what they have done to put the Bills into workable form. Outside the Council, we have to thank the stewards of the Royal Calcutta

Turf Club for their help and advice in regard to the betting tax. The attitude of the stewards towards this tax is, I think, very much the same as the attitude of many members of this Council to taxation proposals generally, but the stewards have ungrudgingly placed their experience and knowledge at our disposal and their help has been simply invaluable.

I should also like to thank Mr. Goodman and the Bookmakers' Association for the similar help which they have extended to us, and we are also obliged to the proprietors of theatres and cinemas of Calcutta, who although they were thoroughly opposed to the amusements tax, have given us facts and figures which, I think, have enabled us to lighten the burden which the tax must impose on the entertainment industry and on the public who resort to those entertainments in Calcutta.

In the matter of the Stamp Bill our thanks are due to the members of the Expert Committee on whose report the Bill was originally drawn up. Without their experience of commercial and legal affairs, it would have been very difficult for us to put forward these proposals with confidence that we were not imposing an undue burden on trade and dealings in property.

The original draft of the Court-fees Bill was prepared by Mr. N. Gupta, who, as Legal Remembrancer, devoted much time and care to the subject. We are also obliged to Mr. Duval, the present Legal Remembrancer, for very valuable help in dealing with the various legal problems which have come up in connection with these Bills

Bills of this kind are specially troublesome to the Legislative Department and our thanks are due to Mr. Tindall and his assistants for the very thorough manner in which they have worked out the various proposals that have been brought up by different people from time to time, and for the care they have taken to make these Bills watertight in every respect.

Finally, I must acknowledge the great value of the assistance I have received from the officers of the Finance Department. The spade work on these Bills and on certain other taxation proposals which have not yet blossomed out into Bills was done by Mr. Marr, and when Mr. Marr's health broke down and he had unexpectedly to go on leave early in January, it was with some dismay that I contemplated the prospect of having to carry through these Bills without his assistance. But Mr. Spry has ably taken his place not only in the Secretariat but also in this Council where, I am sure, members will agree that his presence constitutes a valuable addition to our debating power. The strain which is usually imposed on the Finance Department by the Budget at this time of the year has been very greatly increased by these Bills, and I feel that it is but fitting that I should mention the services rendered by the Finance Department.

Rai RADHA CHARAN PAL Bahadur: In the first place, I beg to renew my congratulation towards the Hon'ble the Finance Member for having successfully piloted all the three taxation Bills and for vanquishing and routing their opponents. With regard to the last of the Bills, namely, the Amusements Tax Bill, I submit that its proceeds are due to us, the representatives of the Corporation, and I may say, the representatives of the people generally. It was suggested by the Corporation and some members of the Council last November that the proceeds of the Amusements Tax Bill might be set apart for the promotion of objects in connection with education, sanitation and industries. Some of us, the members of this Council, sent in amendments to this effect with a view to incorporate such provisions in the Bill, so as to enable the proceeds to be devoted solely to such purposes. Unfortunately the rules are so rigid—owing to some legal quibble, some legal ingenuity, that those amendments had to be disallowed. However, I am not discussing that point now. What I mean to say is that now that the Bill has become law, I still hope that the whole amount of money raised by this measure will be devoted to such useful purposes such as education, sanitation and industries.

The DEPUTY-PRESIDENT: Please conclude your speech.

The member resumed his seat.

The question I have to put is that the Bengal Amusements Tax Bill, 1922, as settled in Council, be passed.

The motion was put and agreed to

The Budget of the Government of Bengal, 1922-23.

Supplementary Demands for grants.

The Hon'ble Mr. J. H. KERR: I move that a sum of Rs. 1,85,300 be granted under the head "45.—Superannuation allowances and Pensions."

This includes Rs. 3,000 in excess of the sum shown in the agenda paper owing to the fact that the High Commissioner in London has raised the home charges from Rs. 6,000 to Rs. 9,000. Apart from this small item this demand is due to the arrangements which have been made with other provinces for the payment of Bengal pensions to Bengal pensioners who have settled down outside Bengal. It has been decided, with the approval of the Government of India and of all the provinces, that the best course to take in connection with the adjustment of funds is to pay in lump the commuted value of the pensions to the provinces in which the pensioners have settled instead of having an annual adjustment of the sums drawn annually in the provinces. In the first year this arrangement will result in some gain to us. We have to pay to other provinces Rs. 3,30,000 while they will pay us Rs. 4 lakhs. What we are asking for

now is the approval of the Council to this method of adjusting pension charges.

The motion was put and agreed to.

The Hon'ble Mr. J. H. KERR: I move that a sum of Rs. 2,88,000 be granted under the head "52.—Miscellaneous adjustments between Central and Provincial Government."

This amount is required in order to meet the charges of printing stamps in England. It would appear that during the war the cost of production of these stamps in England went up to an unexpected extent. The India Office and the High Commissioner have been negotiating with the firm which is engaged on this work and they have agreed to an extra payment of £5,29,000 ; of that our share, we are informed, comes to Rs. 2,88,000 and we are required to pay it before the end of this financial year. That is our reason for asking the Council to grant this demand.

The motion was put and agreed to.

The DEPUTY-PRESIDENT: His Excellency the Governor has most kindly accepted the proposal from the members of this Council that a photograph be taken of him with the members of the Legislative Council and he has agreed that Tuesday next at 10-15 A.M. would be the most suitable time. As I have represented that it would be difficult to obtain a satisfactory photograph here, His Excellency has also said that he will welcome the presence of members at the corner by the staircase of Government House for this purpose, that is, at the place where former photographs of the Bengal Legislative Council have been taken.

It is suggested that the dress for this occasion be morning dress as on the occasion of previous photographs.

As members will have assembled for the purpose of the photograph it is proposed that the Council do sit on Tuesday from 10-30 A.M. to 2 P.M. to prevent double journeys.

I hope that members will make it convenient to be at the staircase of Government House by 10 A.M. to admit of a satisfactory group being arranged.

Several members of the Council have asked that the sitting of the Council on Saturday shall be from 10-30 A.M to 1-30 P.M. in view of the Convocation of the University which takes place at 2-30 P.M. and which many members are desirous of attending. In this matter, I think it would be best if I inquired the sense of the House. Would those members who approve this proposal please rise in their seats?

On only a few members rising, the Deputy-President declared that the Council should assemble at the usual hour—3 P.M.

The DEPUTY-PRESIDENT: I have received a representation from a number of members asking that, if the Government business is completed before the evening of the 17th, His Excellency may be moved to allot

the time so available, to private business. I have inquired of members of the Government, and am satisfied that the very heavy list of motions for reduction of demands for grants circulated last night will involve great labour to Government members in preparing their replies to these motions. This meeting from the 8th to the 17th was arranged solely for Government business and in the circumstances, I should not feel justified in moving His Excellency to change the present arrangements.

Adjournment.

The Council was then adjourned till Saturday, the 18th March, 1922, at 3 P.M. in the Town Hall, Calcutta.

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